

Checklist – Section 5 Appeal Submission

Appellant: Brendan Marry

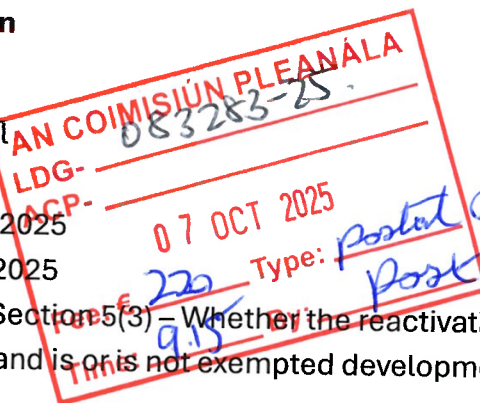
Planning Authority: Louth County Council

Planning Reference: S5 2025/64

Date of Council Decision: 12 September 2025

Date of Appeal Submission: 05 October 2025

Subject: Determination requested under Section 5(3) – Whether the reactivation of a disused piggery constitutes development and is or is not exempted development.



Documents included:

No.	Item	Included	Notes
1.	Cover letter	Yes	Signed and dated
2.	Completed Planning Appeal Form	Yes	
3.	Fee	Yes	Included as postal order payable to 'An Coimisiún Pleanála'
4.	Submission and Ground of Appeal	Yes	
5.	List of Appendices & Appendices bundle	Yes	Cover sheet listing appendices with each individual appendices
6.	Planning Authority Acknowledgement	Yes	S.5 Decision Letter and Planners Report (S5 2025/64)

If any document, appendix, or information referenced in this submission is found to be missing or incomplete, I respectfully request that An Coimisiún Pleanála contact me before **12 October 2025**. I will immediately hand-deliver any outstanding materials to your Marlborough Street office to ensure that the appeal file is complete and can be fully considered.

Brendan Marry

Brendan Marry

Rathiddy Road,
Knockbridge,
Co. Louth,
A91 H57K

brendanmarry@hotmail.com

Date: 05/10/2025

To:

The Secretary
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1

**Re: Appeal under Section 5(3), Planning and Development Act 2000 (as amended)
Decision of Louth County Council dated 12/09/2025**

Planning Reference: S5 2025/64

Site: Rathiddy Road, Knockbridge, Co. Louth, A91 P8RC

Appellant: Brendan Marry

Dear Sir/Madam,

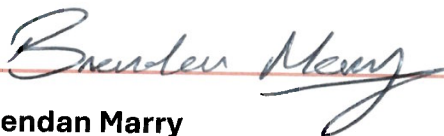
I enclose my appeal under **Section 5(3) of the Planning and Development Act 2000 (as amended)** against the decision of Louth County Council that the reactivation of the piggery at Rathiddy Road, Knockbridge, Co. Louth, A91 P8RC does not constitute development.

Enclosed please find:

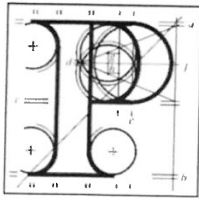
1. **Submission and Grounds of Appeal**
2. **Supporting Appendices (1–8)**
3. **Appeal Fee of €220** (postal order)

I respectfully request that An Coimisiún Pleanála overturn the decision of Louth County Council and declare that the reactivation of the piggery constitutes **development which is not exempted development**.

Yours faithfully,



Brendan Marry



An
Bord
Pleanála

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Brendan Marry

(b) Address

Rathiddy Road, Knockbridge, Dundalk, Co. Louth,
A91 H57K

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Click or tap here to enter text.

(b) Agent's address

Click or tap here to enter text.

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the
address in Part 1

☒

The agent at the address in
Part 2

☐

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Louth County Council

(b) Planning authority register reference number

(for example: 18/0123)

2025/64

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Rathiddy Road, Knockbridge, Co. Louth, A91 P8RC

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Please find Cover Letter, Submission & Grounds of Appeal and Appendices enclosed.

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

☐

No, I do not wish to request an oral hearing

☒

NALA has awarded this document its Plain English Mark
Last updated: April 2019.



Submission and Grounds of Appeal

(Appeal under Section 5(3) of the Planning and Development Act 2000, as amended)

- **Appellant:** Brendan Marry
- **Planning Authority:** Louth County Council
- **Planning Reference:** S5 2025/64
- **Decision Date:** 12/09/2025

1. Executive Summary

This Section 5 appeal seeks a determination from **An Coimisiún Pleanála** (The Commission) on whether the recent reactivation of a long-disused piggery at Rathiddy Road, Knockbridge, Co. Louth — namely, the housing and fattening of pigs within existing sheds (accompanied by the removal of old ventilation chimneys and other works) — **constitutes development and, if so, whether it is exempted development**. The appellant contends that the piggery use was **abandoned for decades** and that its 2023 resumption is a **material change of use** (and involves physical works) requiring planning permission, **not** qualifying as exempted development. Louth County Council, in a Section 5 declaration dated 12/09/2025 (Ref. S5 2025/64), determined that the reactivation did **not** require permission (treating it as a continuation of an exempt agricultural use). This appeal disputes that conclusion and asks the Commission to rule that the piggery's reactivation is **development which is not exempted development**.

The planning record demonstrates that the piggery at Rathiddy Road was abandoned more than **25 years ago**, and that its recent resumption in 2023 constitutes development (because of the abandonment) and is also a material change of use. Key points include:

- **1995:** The owner (Mr. Kirk) submitted a planning exemption application (Ref. 95/271 – Appendix 1) that **explicitly described the structures as a “Disused Piggery”** (the word was underlined for emphasis in this application). He thereby confirmed that no pigs were housed at that time. This declaration was made to qualify for a planning exemption – had pigs been present, a full planning permission would have been required. By declaring the piggery disused (and excluding those buildings' floor area to stay under the 450 m² exemption threshold), the owner **effectively surrendered any active piggery use rights** at that point. Having benefited from that position in 1995, he cannot later claim that the piggery was in continuous use and exempt all along. Any future re-introduction of pigs after 1995 would lawfully **require a new permission**.

- **2010 & 2017:** In two subsequent planning applications (Ref. 10/146 and Ref. 17/548 – Appendix 2 & 3), the same sheds were again recorded in official documents as an **“Old Piggery (Disused).”** This confirms a **prolonged period of non-use** well beyond a temporary lull – at least 22 years of continuous disuse by 2017 – with no evidence of any intermittent reactivation in the interim.
- **2004:** A neighboring house was built in 2004 (Refs. 03/293 and 04/891) at roughly **80 metres from the piggery site.** It is highly unlikely that planning permission would have been granted for a new dwelling so close to an *operational* pig farm (due to odour, noise, and public health concerns). The fact this residence was permitted (with no apparent piggery-related objections or conditions) strongly indicates that by 2004 the piggery was understood by all parties to be **inactive/abandoned.**
- **2019:** Louth County Council granted the appellant planning permission for a new dwelling only **~20 metres from the piggery** (Ref. 19/221 – Appendix 4.a, 4.b & 4.c). Crucially, **no odour impact assessment** was required or conducted for that 2019 house application. Under standard practice and EPA Guidance Note AG5 (odour impact assessment guidelines, first issued 2004 and in widespread use by 2010), an active piggery in such proximity would have necessitated an odour study and likely influenced the planning decision. The omission of any mention of piggery impacts in 2019 implies the Council treated the piggery as **long abandoned** when assessing the appellant’s house proposal. (In other words, in 2019 the Council effectively said “there are no pigs, so no need to worry about piggery odour,” yet in 2025 they reversed to “the pig use was always there, so restarting it needs no permission” – this inconsistency lies at the heart of the appeal.)
- **2023:** After **decades of inactivity,** the piggery has recently been **brought back into use** for fattening pigs (as confirmed by the Council’s Environmental Compliance Officer, Mr. Sean Callaghan, in April 2024 correspondence – Appendix 5). This sudden reactivation has led to severe ongoing **odour nuisance** affecting nearby homes and was accompanied by physical alterations to the structures (e.g. removal of long-standing roof ventilation chimneys (Appendix 7), internal refurbishments). Both the **resumption of the pig-keeping use and the associated structural works** constitute “development” under planning legislation. The general agricultural exemptions in the planning regulations do **not** apply to an abandoned use and **cannot be used to bypass** planning control in this scenario. In short, one cannot simply “switch on” an intensive use that was abandoned decades ago and claim it is exempt agriculture — particularly not when intervening planning permissions (for houses) were granted on the premise that the piggery was inactive.

- **Legal Position:** Under the Planning and Development Act 2000 (as amended), “development” includes **material change of use** of land or structures (Section 3) and any building or engineering **works** (Section 2). While the Act and Regulations provide certain exemptions for agriculture, those apply only where a lawful use is ongoing. **Once a use has been abandoned, any attempt to resume it is a new development requiring permission.** This principle is supported by multiple court rulings and An Coimisiún Pleanála decisions (detailed later) which establish that a use can be lost through long inactivity (“abandonment”), and that general exemptions **cannot ‘revive’ lapsed uses.** Furthermore, the 7-year limit on enforcement (Section 157) does not reinstate an abandoned use or grant it immunity; it simply bars enforcement after 7 years of unauthorised activity (and in any case the piggery reactivation is very recent, well within 7 years).

In summary, **the reactivation of this piggery is development that is not exempted development.** The Commission is therefore respectfully urged to **overturn** the Louth County Council declaration and determine that the piggery’s resumption (and associated works) **constitutes development requiring planning permission.**

2. Relevant Legal Provisions and Interpretation

This appeal is made pursuant to Section 5(3) of the Planning and Development Act 2000, seeking a determination from the Commission that the recent piggery reactivation is development and not exempted development. The following provisions of planning law (and related regulations) are relevant to this case:

- **Section 2(1) – Definition of “Works”:** “Works” are defined as *any act of construction, excavation, demolition, extension, alteration, repair or renewal* of a structure or land. This is a deliberately broad statutory definition, intended to capture a wide range of physical interventions to land or structures. The term encompasses not only acts of new construction, but also any physical changes that alter the appearance, structure, or function of a building or its components. In the present case, the proposed or undertaken actions include (i) the removal of certain existing structures, such as ventilation chimneys, and (ii) internal modifications designed to facilitate the renewed use of the buildings for pig housing. Both categories of activity fall squarely within the statutory concept of “works.” The legislative intent is to ensure that all acts which materially alter the condition or configuration of structures are subject to proper assessment and control. In this context, both the removal of structural components (ventilation chimneys) and the

reconfiguration of internal layouts constitute material physical interventions in the fabric of the buildings.

- **Section 3(1) – Definition of “Development” (Material Change of Use):**

“Development” is defined to include *“the making of any material change in the use of any structures or other land.”* Changing a structure from an inactive or storage use (or no use at all) **back to intensive livestock housing** is a material change of use. The reason for this is as follows. Where a building has been inactive, unused, or used only for storage, it has a minimal or negligible environmental and planning impact — limited activity, limited waste generation, and limited emissions (noise, odour, or effluent). The renewed use of those structures for intensive livestock housing represents a fundamental change in their character, purpose, and impact on the surrounding environment. Irish planning law distinguishes between mere “change of use” and a “material change of use.” The test for materiality is whether the new use results in materially different impacts on the planning or environmental context — for example, on amenity, emissions, traffic, or intensity of operation. The shift from storage (a low-impact use) to intensive pig housing (a high-impact, regulated agricultural activity) clearly meets this threshold. The latter use involves animal accommodation, feed systems, slurry management, ventilation and odour control infrastructure, and increased vehicular movements. These operational and environmental characteristics are wholly distinct from, and materially more intensive than, a dormant or storage use. It is important to emphasise that even where a building was historically used for pig housing, the cessation of that activity for a prolonged period followed by its reintroduction can still amount to a new or material change of use, particularly where planning circumstances, environmental standards, or surrounding land uses have evolved. In this sense, the “material change” arises not merely from the physical reoccupation of the building, but from the functional reactivation of an intensive agricultural process that carries distinct planning implications compared with the inactive or storage phase.

- **Section 4(1) of the Act & Article 6 of the Planning Regulations – Exempted Development Classes:** Planning law and regulations set out certain classes of development that are “**exempted development,**” meaning they do not require planning permission, typically for minor works or uses within an existing context (including some agricultural buildings/uses under Part 3 of Schedule 2 of the Regulations). **However, these exemptions presume an existing lawful use is ongoing.** An exemption cannot be claimed to **recommence a use that has lapsed** or been abandoned. In other words, if a use has ended, one cannot simply invoke an exemption intended for continuing that use – an abandoned use is no longer

“existing” for exemption purposes. (This is a crucial point in this appeal: the piggery’s long-disused status means agricultural exemptions cannot automatically apply to its revival.)

- **Section 157(4)(b) – Seven-Year Limit on Enforcement:** Under planning law, unauthorised developments become **immune from enforcement** by the local authority after 7 years (i.e. the Council cannot take enforcement action if the unauthorised use or works has been ongoing for 7+ years undetected). Importantly, this **does not legalise** the development or retroactively make it exempt — it simply prevents enforcement action. Nor does it have any bearing on a Section 5 referral such as this. In particular, the 7-year rule **cannot revive an abandoned use** or confer permission; it only limits enforcement against an *unauthorised* ongoing use. In this case, the piggery’s reactivation is very recent (commenced 2023) and well within 7 years, so immunity does not even arise. But even if the use were to continue for 7 years, it would still be an **unauthorised** use (albeit immune from enforcement) – it would not become a lawful established use. Thus, Section 157 does not assist the owner’s position at all.
- **Animal Health and Welfare Act 2013 & European Communities (Pig Welfare) Regulations 2016 (S.I. No. 116 of 2016):** Separate from planning law, anyone keeping pigs is **legally required to register** and obtain a valid **herd number** from the Department of Agriculture (DAFM) for biosecurity and animal welfare purposes. Operating a pig farm without such registration is an offence. In this case, DAFM has confirmed that **no pig herd number was ever registered for this site** (see Appendix 6.a & 6.b). This is telling evidence that the piggery enterprise was defunct for a long period – a substantial, lawful pig-rearing operation could not have been ongoing in recent years without a herd number. (While herd registration per se is not a planning matter, the **absence** of any registration aligns with the planning evidence that the piggery use had been abandoned. It either means no pigs were kept, or if they were, it was done unlawfully under agricultural regulations – either scenario reinforces that the use was not a lawful, established one.)

3. Evidence of Abandonment

For the piggery's resumption to be considered "exempted" development under agricultural use classes, there would need to have been a **continuity of the lawful use** – i.e. the piggery would have to have been an existing, ongoing enterprise. In this case, the owner/developer has provided **no evidence whatsoever** of continuous use of the piggery over the past 25+ years. On the contrary, the accumulated planning record provides multiple **explicit acknowledgments that the use had ceased** long ago. The key records and events demonstrating **abandonment** are summarized below:

- **1995 – Planning Exemption (Ref. 95/271 – Appendix 1):**

- In 1995, the owner, Mr. Kirk, submitted a planning application to Louth County Council for a farm development and sought to have it treated as **exempted development**. In the submitted plans, several agricultural buildings on the holding were listed, and notably **Buildings "O" and "P" were marked and underlined as a "Disused Piggery."** This was a clear and deliberate representation that these sheds were *not in use* for pig rearing at that time.
- This designation was not incidental; it was used to ensure the total floor area of active livestock housing on the farm remained below **450 m²**, which was the threshold for requiring full planning permission. By **excluding the piggery buildings (labelled disused)** from the "active" floor area calculation, the owner was able to claim the exemption for the other development. Had the piggery been considered active in 1995, the exemption would not have applied (and planning permission would have been needed for that development).
- By formally declaring the piggery to be **"disused" in 1995 to gain an exemption**, the owner effectively acknowledged that the pig use had ceased. He **availed of the piggery's non-operational status** for planning benefit. Having benefited from that claim, he cannot now credibly assert that the same piggery was in continuous use all along. In legal terms, one cannot *approbate and reprobate* in this manner.
- The 1995 record is thus the earliest and clearest documentary confirmation that the piggery **had ceased operation by that date**. It marks a formal point on the planning file where the piggery use was treated as **abandoned**. From that point forward, any future re-introduction of pigs in those buildings would **require a new grant of permission**, since the previous use right had been

effectively surrendered or extinguished by the owner's own declaration of non-use.

- **2010 & 2017 – Further Planning Records (Ref. 10/146 and 17/548 – Appendix 2 & 3):**

- The long-term disuse of the piggery is further evidenced in subsequent planning applications. In 2010 and again in 2017, documents on file (site plans, landholding maps, etc.) **describe the very same piggery structures as “Old Piggery (Disused).”** These notations appear in the official drawings and reports for those applications, indicating that well over a decade after 1995, the pig sheds still had **no livestock and no active use.**
- The repetition of the term “disused” in planning records **over a span of 22+ years (1995 through 2017)** demonstrates a **prolonged, continuous cessation** of the piggery use. This was not a brief interruption or a seasonal empty period; it was effectively a permanent cessation from the mid-90s until at least 2017. There is no evidence in any of these files (or elsewhere) of the piggery being reactivated at any point during those years. By 2017, approximately **22 years** had elapsed with the piggery idle – a duration strongly supporting a finding of abandonment in planning terms. All indications (including eventual removal of piggery infrastructure, discussed later) were that there was **no intent to resume** the use in the interim.

- **2004 – Nearby Dwelling Permission:**

- In addition to formal records directly labeling the piggery as disused, the pattern of development in the vicinity supports the conclusion that the piggery was long inactive. In 2004, planning permission was granted for a neighbor's house approximately **80 m from the piggery sheds.** Typically, it is against sound planning practice to permit new residential development within such close proximity to a *functioning* intensive piggery (due to the inevitable odour, noise, and pollution issues). The fact that a dwelling was allowed only ~80 m away strongly implies that, at that time, the planning authority **did not consider the piggery to be operational.**
- Had the piggery been active in 2004, one would have expected either an outright refusal of the house application or at least stringent conditions and

impact assessments (e.g. odour studies, minimum separation distances, orientation of the house away from piggery, etc.). No such precautions appear to have been necessary. Indeed, as far as can be ascertained, the house's planning file contained **no objections or special conditions** relating to pig farming nearby. This suggests that all parties (the applicant, the Council, and any observers) assumed **no active pig farm existed** on the adjacent site by that time. This 2004 permission thus bolsters the conclusion that the piggery use had been **dormant/abandoned** by the early 2000s.

Continuity of Use – Burden of Proof: In planning law, if an owner claims an existing use to avoid needing permission (or to claim an exemption), the **onus is on that owner to prove the use was continuous and lawful**. In this referral, the piggery owner has not produced **any logs, records, herd registrations, or other evidence** to demonstrate that pigs were continually kept on-site over the last two decades. By contrast, the evidence of discontinuance is compelling (as outlined above). In such circumstances, any doubt should be resolved **in favour of requiring permission** for resumption of the use. Indeed, the Commission has taken this approach in similar cases: for example, in **ABP Ref. 317633-23** (2023), the Commission determined that re-opening a long-disused site entrance was development requiring permission *specifically because* continuous use of that entrance had not been demonstrated. If even an unused gate must be treated as development when brought back into use after years, then **reintroducing an entire pig farming operation after 25+ years is unquestionably a material change of use** requiring permission.

Legal Effect of Abandonment – Precedents: Established legal principles and precedents underscore that once a use has been abandoned, any later resumption is treated as a new use (development) that cannot be exempt. Key cases include:

- *Readymix (Ireland) Ltd. v. Dublin County Council* (Supreme Court, 1990) – The Court held that **a change of use alone can constitute development**, even if no physical works are carried out. In other words, if land or buildings begin to be used for a purpose materially different from the established use, that change is “development” under the Act. **Relevance here:** Turning dormant, empty sheds back into an active piggery is a clear change of use (from no use/storage to intensive livestock housing), hence it is development requiring assessment.
- *Mulholland v. An Bord Pleanála* (High Court, 2006) – The Court confirmed that **abandonment of a use extinguishes any existing use rights**, and any attempt to later resume that use is essentially the **commencement of a new use** which requires planning permission. Once a use has been given up (even without formal

renunciation), the owner cannot simply restart it after many years and claim it as a continuation of the old use. **Relevance:** This mirrors the present situation – a long-disused piggery use has been picked up again, which under Mulholland is treated as a new use needing permission.

- *Brogan v. Housing Executive* (Northern Ireland Court of Appeal, 1987) – Often cited in Irish planning contexts, this case established that **general exemption provisions (such as for agriculture)** cannot be used to **revive a use that has already been abandoned**. Exempted development rules presume there is an existing active use; they do not apply to a fresh reactivation of a use that had died out. **Relevance:** Even though pig keeping is an agricultural activity, the piggery's classification as agriculture does not grant it perpetual immunity from planning once it ceased operation for decades. The owner cannot simply invoke "agricultural building" exemptions to cover what is effectively a **new pig farm startup** on the site.
- *Dublin County Council v. Tallaght Block Co. Ltd.* (Supreme Court, 1982) – The Supreme Court set out criteria for determining **abandonment** of use. It noted that a long period of non-use, especially combined with factors like removal of equipment, lack of maintenance, and absence of any intent to resume, can lead to a finding that the previous use was abandoned. Once abandoned, any resumption is a **material change of use requiring permission**. **Relevance:** By the Tallaght Block criteria, the Rathiddy piggery was clearly abandoned: we have well over 20 years of cessation, removal of critical infrastructure (ventilation chimneys), no evidence of upkeep or intent to resume, and even planning decisions (like houses granted nearby) predicated on the piggery's inactivity. Restarting it now after such a hiatus is unequivocally a new development, not a continuation.

4. Reliance on Piggery's Disuse in Granting Nearby Dwellings

The **planning history of the surrounding area** shows that the authorities themselves proceeded on the understanding that the piggery was inactive, as evidenced by permissions for new dwellings in close proximity with **no special precautions for a pig farm next door**:

- **Appellant's Dwelling (2019, Ref. 19/221 – Appendix 4.a, 4.b & 4.c):** In 2019, Louth County Council granted permission for the appellant's own house only **~20 m from the piggery sheds**. At that extremely close distance, if the piggery had been considered an active or even potentially re-activated operation, the Council would have been obliged – under environmental guidance (EPA Guidance Note AG5 on

Odour Impact Assessment, 2004/2010) and normal planning practice – to **require an odour impact assessment** and likely impose conditions to protect residential amenity (such as a greater setback, sealed windows/ventilation for the house, etc.). **No odour study was requested or submitted** for the 2019 house. There is no evidence that the Council consulted any Environmental Health Officer about piggery impacts, nor imposed any condition related to the piggery's presence. This is not an oversight; it can only be explained by the fact that the piggery was understood to be **long disused/non-operational** at that time. The Council effectively treated the pig sheds as redundant farm buildings posing no active threat to amenity. Otherwise, it is nearly inconceivable that a new dwelling would have been approved so close by without extensive consideration of the piggery. The 2019 permission was therefore **predicated on the assumption that the piggery use no longer existed** in any meaningful way.

- **Neighbour's House (2004, Ref. 03/293 & 04/891):** Similarly, another dwelling was built approximately **80 m from the piggery** in 2004. While formal odour guidelines were less developed in 2004, basic planning principles regarding incompatible land uses still applied. The fact that a house was permitted at 80 m – with no apparent objections or special conditions addressing pig farm proximity – indicates the planning authority did not view the pig sheds as an active intensive pig farm at that time. Typically, if a piggery were known to be operational, a much larger buffer distance would be expected (often several hundred metres depending on the size of the operation), or else the application might attract objections due to odour/health concerns. Yet that dwelling's file shows no such issues, implying that **no active piggery was perceived** in the vicinity. This corroborates the scenario in 2019: for decades, both local residents and the Council operated under the belief that the Rathiddy piggery was **defunct**.

In summary, the granting of these residential permissions so close to the piggery underscores an important point: **had the piggery been considered a live concern, those houses would likely not exist (at least not without stringent conditions)**. The planning authority **cannot now approbate and reprobate** – having effectively treated the piggery as abandoned for the purpose of permitting houses, it cannot suddenly accept a claim that the piggery was “existing” all along for the purpose of avoiding permission. The Commission should give significant weight to the fact that the Council itself (and homebuilders in the area) **relied on the piggery's absence** when shaping development decisions. This history makes it inequitable and illogical to now pretend the piggery use was continuously extant and exempt.

5. Four Pillars of Abandonment (Assessment Criteria)

Irish planning case law (in line with UK jurisprudence) often refers to **four key factors** – sometimes called the “four pillars of abandonment” – to determine whether an established use has been abandoned. Evaluating the Rathiddy piggery against each factor:

- **Intention to Abandon:** All evidence suggests that the owner **intended to give up** the piggery use (or at least accepted its cessation). In 1995, Mr. Kirk explicitly described the buildings as disused to secure an exemption, indicating **no intent to continue pig farming at that time**. In the years following, he made **no efforts to maintain or restart** the piggery: critical farm infrastructure (the ventilation chimneys) was removed, and no applications were made to modernize or resume the use. Notably, when new herd number registration requirements came into force in 2016, the owner **did not register this site for pigs** – something he certainly would have done if he planned to keep the use alive legally. All these facts point to the conclusion that the owner had **abandoned any intention** of continuing pig farming at Rathiddy.
- **Length of Non-Use:** The piggery remained out of use for **well over two decades** (from at least the mid-1990s until late 2023). A hiatus of ~25–28 years far exceeds what might be considered a temporary suspension. In planning terms, a gap of that magnitude strongly indicates that the use was not merely “dormant” but **definitively abandoned**. Such an extraordinary duration of non-use provides clear evidence that whatever use rights once existed were long lapsed.
- **Physical Condition of the Property:** The state of the piggery buildings reflected their long disuse. Over the years, **essential fixtures were removed or fell into disrepair**. Most notably, the ventilation chimneys (integral for an operational pig house) were taken off the roofs at some stage, leaving the sheds without proper ventilation equipment. No visible upgrades or maintenance related to pig-rearing were undertaken during the inactive period – for instance, there were no modern feeding systems, fans, or slurry management systems installed until the recent refurbishment. Prior to 2023, the buildings appeared as aging farm sheds with no sign of housing livestock. This physical deterioration and decommissioning is consistent with a site that had been **abandoned as a piggery**, rather than one quietly in continuous use.

- **Intervening Use (or Lack Thereof):** There is no evidence that the piggery buildings were put to any significant alternative use in the interim that might suggest ongoing farm activity. At most, they might have been used for incidental storage or left entirely idle – neither of which equates to continuing a pig farming use. Crucially, if pigs had been kept in any appreciable numbers in recent years, one would expect some indicators: an active herd number registration, complaints about odour, records of feed or waste management, etc. **None** exist. In short, nothing “filled the gap” of the piggery use once it ceased – the structures simply sat unused for their intended purpose until the recent reactivation.

All four factors point uniformly to the same conclusion: the piggery use was **abandoned**. The owner’s own actions and inaction showed no intent to resume; the period of non-use was extremely long; the physical state of the facility evidenced abandonment (even de facto decommissioning); and there was no substitute use that kept the piggery function alive. This aligns with established legal tests for abandonment – once a use meets these criteria, any revival of that use (as attempted here) is treated as a **new development requiring planning permission**.

6. Structural Alterations – Independent Ground Requiring Permission

Even aside from the change-of-use issue, the **physical works** undertaken at the piggery to enable its reactivation constitute development in their own right and **would themselves require permission**. Over the years of disuse (and especially in preparing to restart operations), the owner carried out works that are not exempt:

- **Removal of Ventilation Chimneys:** Photographic evidence (Appendix 7) shows that as of 2009 the piggery sheds had multiple **ventilation stacks/chimneys** on their roofs, which were integral to the original design for housing pigs (used to vent odours and heat). Between 2009 and 2023, these chimneys had been **removed or capped off** as part of refurbishing the long-idle sheds. This removal is very telling: adequate ventilation is critical in any operational piggery for animal welfare and odour control, so an actively used pig farm would not remove its ventilation system unless the housing use had long ceased. The elimination of these chimney structures constitutes an **alteration to the exterior** of the buildings – clearly falling under “works” (Section 2(1) covers demolition or alteration). This change materially altered the external appearance of the structures (the roofs) and is not merely de minimis maintenance. There is no evidence that the removal of these features was ever covered by any planning permission or exemption at the time it occurred.

- Internal Refitting and Installations:** Likewise, bringing the derelict sheds back into pig-rearing operation in 2023 likely involved installing or upgrading significant internal apparatus: e.g. pen divisions, feeding systems, water lines, slurry storage and ventilation equipment, electrical and heating systems, etc. While internal works are less visible, they still fall under the broad definition of construction/alteration if they were necessary to make the buildings functional again for pig housing. Essentially, the owner undertook a **substantial refurbishment** of buildings that had been long unused. There is no class of exempted development that authorises a **full internal fit-out to recommence an abandoned use** (beyond very minor works). These works enabled the change of use and are part and parcel of the development.
- No Applicable Exemption:** It should be noted that the planning regulations do provide exemptions (Class 9 of Part 3, Schedule 2) for certain agricultural structures and works **within an operational farm**. However, those exemptions come with important limitations: *no material alteration of the external appearance* inconsistent with the landscape, and crucially, they apply to **existing farms/uses** (they do not envisage reactivation of structures that have been out of agricultural use). In this case, removing the ventilation chimneys and overhauling the buildings after decades of non-use was not “maintenance of an existing use” – it was part of **reactivating a defunct facility**, involving material changes. Thus, these works did not fall under any normal exempted development category. The Council’s declaration under appeal failed to properly consider that unapproved works were carried out. Even setting aside the change of use question, **those physical works themselves required planning permission** and none was obtained – which means the current piggery operation is supported by *unauthorised works*. An unauthorisedly refurbished structure cannot, by default, confer exempt status on the use conducted within it.

In summary, the physical changes made to restart the piggery are **development** in their own right and **not exempt**. Even if one were to argue (contrary to evidence) that the use itself remained lawful, the owner essentially undertook a significant construction/renovation project on the dormant buildings without planning consent. Under Section 3(1), carrying out works (unless exempted) is development. Here, no exemption applies because the works were integral to reinstating an abandoned use and altered the structures’ appearance and function. Therefore, the unauthorised works provide a separate and independent ground on which the reactivation is not exempted development.

7. Louth County Council erred in their S.5 Determination

The Planning Authority's assessment (the Planner's Report for the Section 5 declaration) contained several significant errors and omissions. The Council erred in the following terms:

- **(a) Ignoring the Owner's Own Admissions:** The Council's report failed to acknowledge the clear record of **admissions by the piggery owner** that the use had ceased. As described, the **1995 exemption application** explicitly underlined "Disused Piggery" for the buildings in question. This was a formal declaration by the owner that the piggery was not in operation. It is a critical piece of evidence, as it shows the owner *himself* treating the use as abandoned at that time. The planner's report, however, either overlooked or downplayed this fact. By disregarding the owner's 1995 statement (and the legal effect of having relied on disuse to obtain an exemption), the Council did not appear to consider the evidence that directly undermines any claim of an "existing" use continuing to the present. The owner cannot credibly maintain both positions – he **disclosed to the Council in 1995 the piggery was inactive** (to gain advantage), so he cannot credibly assert now that it was active all along. The report did not grapple with this inconsistency.
- **(b) Ignoring the 2019 House Permission Context:** The planner's report made no mention of the fact that **the Council itself granted a dwelling 20 m from the piggery in 2019** with zero piggery-related safeguards, implicitly because the piggery was considered disused. This context is highly relevant to determining whether the piggery use was regarded as ongoing or not. The failure to consider it is a serious omission. It demonstrates a clear inconsistency in the Council's position: the same authority in 2019 effectively said *"we don't need to worry about pig odour because there are no pigs,"* but in 2025 it said *"actually the pig use was always there, so no permission is needed to continue it."* The Section 5 report did not address this contradiction at all.
- **(c) Ignoring the Absence of a Herd Number:** The report also overlooks the fact – confirmed by Department of Agriculture records (Appendix 6.a & 6.b) – that **no pig herd number was ever registered for this site**. Since 2016, all active pig farms in Ireland must, by law, have a herd number. The absence of any registration means either (i) no pigs were kept, or (ii) pigs were kept illegally in breach of regulations. Either scenario indicates the operation was not a lawful, ongoing use. A long-term

unregistered piggery should **not be presumed to be an “established” use**; if anything, it indicates the opposite (no legitimate activity, or at best a covert illegitimate activity which planning should not recognise as exempt). The planner’s report did not factor this important point into the determination. It should have raised a red flag about the continuity and legality of any claimed existing use.

- **(d) Overreliance on Aerial Imagery (Buildings ≠ Use):** The Council’s decision appears to lean on satellite or aerial photos showing that the piggery buildings remained intact (roof still on, etc.) over the years. However, the mere **physical presence of structures is not evidence of an active use**. A shed can stand for decades without being used for its original purpose. The planner seemingly conflated the **existence of the piggery buildings with the existence of a piggery use**, which is a fundamental error in planning assessment. What matters is whether the activity (pig rearing) was being carried on, not whether the empty building was still there. In this case, all indications (records, lack of animals, lack of maintenance) are that pig rearing was *not* occurring, regardless of the building’s presence. The Council placing weight on aerial photos of a roofed structure misses the point – a disused piggery shed looks the same from the sky as a used one. It’s the on-the-ground use that differed, and **that** is what needed evaluation.
- **(e) Misinterpretation of Precedents and Case Law:** The planner’s report cited certain legal cases/referral precedents but **misapplied them to the facts at hand**. For example:
 - **Dublin County Council v. Tallaght Block Co. (1985)** – The report references this Supreme Court case, but seems to conclude it favored the owner’s position. In reality, *Tallaght Block* established that a long cessation of use, with no evidence of likely resumption, constitutes abandonment. In that case, an industrial use that had ceased for several years was deemed abandoned. The facts of the present appeal **meet and exceed** the Tallaght Block scenario (here we have over two decades of cessation, explicit statements of disuse, removal of equipment, etc.). Properly applied, *Tallaght Block* supports the appellant: it suggests the piggery use was abandoned, meaning resumption is a new development. The planner failed to apply this precedent correctly.
 - **ABP Ref. 311139-21 (“Mullinahone” piggery referral, 2021)** – In this referral decision, the Commission dealt with a somewhat analogous question of whether a piggery operation was exempt. The key takeaway was that **the Commission looked for clear evidence of an existing continuing use** and

was cautious about accepting an exemption claim if the history of use was in doubt. In our case, the history is not merely in doubt – it’s affirmatively documented as disused. The principle from 311139-21 actually supports the appellant’s position: The Commission should closely scrutinize any claimed “existing use” and, seeing the strong evidence of abandonment here, should reject the exemption claim. The Council’s report did not seem to appreciate this nuance.

- **ABP Ref. 311365-21 (2021)** – This referral involved a change from cattle housing to pig rearing on a farm, questioning if it was a material change of use. The Commission found that if the overall agricultural enterprise was ongoing and just the type of livestock changed, it might *not* be a material change in that context. However, that case is **clearly distinguishable** from the present situation: in 311365-21, the farming use on the site was continuous (no abandonment); it was a live farm, simply shifting from one livestock to another. Here, by contrast, we are dealing with a farm use that had **completely ceased** for ages. Thus, the conclusion in 311365-21 does not imply that starting up a long-closed piggery is exempt – if anything, it underscores that only **continuous** agricultural uses might enjoy such latitude. The Council’s reliance on that case was misplaced.
- **ABP Ref. 317633-23 (2023)** – As noted earlier, this very recent Commission decision held that **re-opening a long-disused site entrance constituted development and was not exempted**. If even an unused field gate required fresh permission to resume use after years of inactivity, it stands to reason that a large-scale, environmentally impactful use like a piggery cannot be revived without permission after decades. The planner’s report did not cite this precedent (despite it being directly on point and from 2023). By ignoring such a relevant case, the Council missed a critical indicator of how the law should be applied here.

Because of the above flaws (a–e), the Council’s Section 5 declaration is fundamentally unsound. The analysis was incomplete and in places incorrect, failing to grapple with the **core issue of abandonment** and misreading both facts and law. The Commission is entitled to set aside the Council’s conclusion and make its own determination on the correct footing.

8. Evidence of Recent Reactivation (2023)

There is no dispute that the piggery buildings, after many years with no animals, were **restocked with pigs in 2023**. The Council's own Environmental Compliance Officer, Mr. Sean Callaghan, noted in an April 2024 letter (Appendix 5) that the piggery had been *"recently brought back into use for fattening pigs."* The circumstances of this reactivation strongly support the appellant's case that a **material change/development** has occurred:

- **Temporal Break:** The piggery lay idle for roughly **22–25 years**, then was suddenly reactivated in 2023. This is clearly not a case of continuous use; it is the **commencement of a new use** after a long interruption. Even though the physical structures are old, the activity within them is new in planning terms due to the long temporal break.
- **Nature of Use Resumed:** The current activity involves the intensive housing and fattening of pigs — a use with significant external impacts (persistent odours, noise from animals and machinery, generation of slurry and waste, increased farm vehicle traffic, etc.). During the decades of disuse, none of these impacts were present; the site was effectively just a collection of quiet farm sheds. The **abrupt introduction** of odour, noise, and waste impacts in 2023 underscores how **materially different the current situation is** compared to the long-standing prior situation. The character of the site and its effect on the environment/neighbors have changed dramatically, which is the hallmark of a material change of use.
- **Extent of Alterations:** The reactivation did not happen by simply opening a door — the owner had to **carry out works to make the buildings serviceable for pigs again**. As noted, ventilation chimneys that had been in place for decades were removed (likely as part of installing a new ventilation system or due to roof repairs), and the interiors were refitted with new equipment. These actions indicate a deliberate development effort to **enable pig farming anew**. This was not a case of a farm that was "mothballed" but maintained in ready condition; it was effectively a dead facility that was **redeveloped to function again**. Such required refurbishment further supports that the use had indeed ceased and is now being restarted from scratch.
- **Official Acknowledgment:** The Council's own correspondence uses the phrasing **"brought back into use,"** implicitly acknowledging there was a period of non-use. That choice of words aligns perfectly with the appellant's position: that a **revival**

occurred. In ordinary planning parlance, if something is “brought back into use,” it means it was out of use before. This is essentially an admission that what happened is a **reactivation** – which, in planning terms, should have triggered a fresh permission if the original use was long abandoned.

The significance of these points is that the current pig-keeping activity **cannot credibly be characterized as the continuation of an existing use** – it is a reactivation of a use that had ceased. Under Section 3(1) of the Act, this **amounts to a material change of use** of the structures and land, thus falling within the meaning of “development.” Since no planning permission was ever sought or obtained for this change, it is *prima facie* unauthorised (unless it somehow qualifies as exempted development). For all the reasons outlined in previous sections (especially the overwhelming evidence of abandonment), **no exemption applies**. The attempt to rely on general “agricultural” exemptions fails because those presume an existing, lawful agricultural use — which was absent here for decades. In summary, the facts of the reactivation confirm that the piggery’s operation in 2023 is a **new development** in planning terms.

9. Absence of Required Herd Number (Corroborating Abandonment)

While herd-number registration is not a planning matter per se, its absence provides corroborative evidence of long-term disuse. This absence demonstrates that no lawful agricultural or livestock operation has existed on the site for many years, reinforcing the conclusion that the piggery use was abandoned and subsequently reactivated without permission. As mentioned under the legal framework, Irish law requires every pig farm to register for a **herd number** with the Department of Agriculture. This requirement has been in effect (in its current form) since 2016, and similar registration rules existed before then. The appellant obtained written confirmation from DAFM that **no pig herd number was ever issued for this location** (see Appendix 6.a & 6.b). This fact is noteworthy for several reasons:

- **Indicative of No Legitimate Activity:** If pigs had been kept in any significant number at any time in the past decade (under the current herd registration regime) – or even under older regimes pre-2010s – the owner would be expected to have a herd number for biosecurity and disease control compliance. The complete lack of any registration strongly suggests that **no lawful commercial pig-rearing was occurring** on the site. While it’s possible a handful of pigs could have been kept informally without registration, an intensive “fattening” operation (such as what exists now) certainly could not operate under the radar. The absence of a herd

number aligns with the conclusion that, **for all practical purposes, pig farming was not ongoing** on this site during the period of claimed abandonment.

- **Legal Implications:** If the owner were to contend that he did quietly have pigs all along (which, notably, he has not credibly done), he would essentially be admitting to operating in violation of agricultural law. **Keeping pigs without a herd number is unlawful** and can lead to enforcement action by the authorities. It is highly unlikely that the owner would run a full-scale pig enterprise illegally for years, given the risks and the need to market pigs (which typically requires movement permits tied to herd numbers). The more plausible explanation is simply that he **had no pigs, hence saw no need to register** until the recent reactivation (at which point a herd number would presumably be obtained to sell pigs commercially). In any event, even if an unregistered piggery had existed, that would not constitute a lawful established use in planning terms – an illegally operated use does not acquire immunity or exempt status just by existing. The Commission should not assume a continuous piggery use in the face of this evidence; indeed, the lack of a herd number is another piece of objective evidence that the piggery was **dormant until the current activation**.

In summary, the herd number evidence is a strong corroborating factor confirming the long-term **abandonment** of the piggery use. It also underscores that the current pig-keeping activity is essentially a **fresh start** (requiring all appropriate permissions and regulatory compliance), not a legacy activity that can be grandfathered in under exemptions. If the use truly had been ongoing, there would be a paper trail like a herd number; there isn't one, so the only reasonable inference is that the use lapsed entirely.

10. Environmental and Amenity Impacts of the Reactivated Piggery

The renewed piggery operation has had a significant **negative impact on local amenity and the environment**, which is precisely why **planning control is necessary** for such a development. Since the reactivation in 2023, the appellant and other nearby residents have experienced serious nuisance effects that were absent for decades prior. This highlights the material change in circumstances and the public interest in regulating the use. Key points regarding impacts include:

- **Odour:** Intensive pig farming produces strong and pervasive manure and feed odours. During the decades of disuse, neighbors had no such issues. Since pigs were reintroduced, residents (including the appellant) have suffered **persistent foul odours**, especially noticeable in warmer weather or when the wind blows from the piggery towards the houses. Outdoor areas (gardens, yards) have become

unpleasant, and even indoor spaces can be affected when windows are open. This represents a serious interference with the **enjoyment of property** and local air quality – a core consideration in planning (under Section 34(2), planning authorities must consider residential amenity). The sudden re-emergence of noxious odours is direct evidence of a **material change in the environment** attributable to the resumed use. If this were a new pig farm proposal, a detailed **Odour Impact Assessment** (per EPA Guidance Note AG5 protocols) would be mandatory, and likely an EPA licence (for larger pig numbers) would also be required. Because the owner attempted to bypass the planning process, **no such studies or mitigation measures** were put in place. In effect, the piggery resumed without any modern environmental controls, and the neighbors are now bearing the brunt of that omission.

- **Noise:** While odour is the most prominent issue, noise from the piggery has also increased. The sounds of pigs (especially during feeding or disturbance) and related farm machinery (feed augers, loading equipment, power washing, etc.) are now audible in an area that was previously very quiet. This change, though perhaps intermittent, further **highlights the change in character** of the locality caused by the piggery's re-opening. What was once a peacefully silent set of old farm buildings now emits animal noises and mechanical sounds, adding to the loss of amenity.
- **Waste Management:** The keeping of pigs generates significant organic waste (slurry/manure) and used bedding/feed waste. How this waste is handled has important implications for **groundwater, surface water, and odour**. Normally, a piggery application would be assessed for adequate slurry storage capacity, proper effluent management, and safe land-spreading arrangements, with measures to prevent pollution. In this case, because no application was made, there has been **no oversight or conditions** to ensure proper waste management. There is a concern that the slurry and waste are not being managed to the standard that a licensed or permitted facility would require. This raises risks of **environmental pollution** (nutrient runoff, contamination of wells or streams) in addition to the odour issues. In essence, treating the reactivation as "exempt" has meant that the usual environmental safeguards that come with planning (or EPA licensing) did not get applied.
- **Planning Precedent and Intent:** Allowing this intensive use to effectively "fly under the radar" of the planning system sets a **concerning precedent**. It suggests that a large-scale operation can be mothballed for decades and then restarted in the middle of what has since become a residential community, with **no public notice or**

environmental assessment. This outcome runs counter to fundamental principles of orderly planning and transparency. The proper course, had the owner wished to resume pig farming responsibly, would have been to **apply for planning permission**, allowing the Council (and the EPA and local residents) to consider the proposal, impose appropriate conditions or mitigation, or refuse it if it was incompatible with the now-established residential uses around it. The fact that significant impacts are now occurring — and indeed that the **EPA has had to get involved** (Appendix 8 contains correspondence where the EPA instructed the Council to conduct multiple odour assessments around the piggery in response to complaints) — demonstrates that this is not a trivial matter of a small farm exemption. It is a development with real, tangible effects that warranted scrutiny.

In light of these impacts, the Commission should also note Section 4(4) of the Planning Act and related regulations: **development is not exempted if an Environmental Impact Assessment (EIA) or Appropriate Assessment (AA) would be required.** While the scale of this piggery may or may not formally trigger a mandatory EIA, the spirit of that provision is that where **significant environmental effects** are likely, one cannot hide behind an “exemption” to avoid proper assessment. Here, the necessity for EPA-monitored odour surveys suggests that the effects are indeed significant (at least at a local scale). Even if an EIA is not legally mandated, the scenario is precisely what EIA requirements are designed to address — significant environmental impacts on receptors (in this case, nearby residents and the local environment) should be evaluated and mitigated through the planning process. Therefore, even if one were initially inclined to consider an agricultural exemption, it **should not apply in this case due to the appreciable environmental and amenity impacts.** The only appropriate way to address such impacts is through a full planning application and, if needed, environmental licensing – which is what the appellant seeks to ensure.

11. Summary of Legal Precedents and An Coimisiún Pleanála Decisions

For ease of reference, the principal legal authorities and the Commission precedents cited in this appeal are summarized below with their key principles and relevance:

Court Cases:

- *Readymix (Ireland) Ltd. v. Dublin CC* (1990) – Held that **a change of use by itself can constitute development**, even if no physical works are involved. **Relevance:** Reactivating the piggery after decades of inactivity is a clear change of use (from no use/storage to active pig housing) and thus qualifies as “development.”

- *Mulholland v. An Bord Pleanála* (2006) – Confirmed that **abandonment of a use extinguishes the right to that use**; once a use is abandoned, any later resumption is treated as a **new use requiring permission**. **Relevance:** Mirrors the present facts – the piggery use was abandoned long ago, so its resumption in 2023 is a new development that demands planning permission.
- *Brogan v. Housing Executive* (NICA, 1987) – Established that **planning exemptions cannot revive an abandoned use**; agricultural use exemptions (or any use class exemptions) apply only if the use was ongoing. **Relevance:** The piggery cannot be deemed automatically exempt as “agriculture” after 25+ years of no activity – once the use ceased, the ability to claim exemption ceased as well.
- *Dublin CC v. Tallaght Block Co.* (1982) – Found that **long-term cessation of a use (with no intent to resume) constitutes abandonment**, and any later restart is a material change of use (development) requiring permission. **Relevance:** Strongly supports this appeal: here we have an extremely prolonged non-use (well over two decades), during which the piggery was effectively decommissioned and surrounding development proceeded on the basis of its absence. By the Tallaght Block standard, the piggery was abandoned, so restarting it now is unquestionably development.

An Coimisiún Pleanála Decisions:

- **ABP-311139-21 (2021) – “Mullinahone Piggery” (Co. Tipperary):** The Commission highlighted that **claiming an exemption requires clear evidence of an existing continuing use**. If the history of use is unclear or suggests it may have been abandoned, the benefit of the doubt does *not* favor the exemption. (In that case, the Commission scrutinized an alleged continuation of a piggery use and was cautious about accepting it without solid proof.) **Relevance:** Here, the history is not merely ambiguous but clearly shows abandonment. Following the Commission’s cautious approach in 311139-21, the Rathiddy piggery reactivation should not be considered exempt in the absence of any proof of continuity (which in fact is disproven by the evidence).
- **ABP-311365-21 (2021) – Livestock Change on Active Farm:** The Commission determined that changing the type of livestock (cattle to pigs) within a continuously operating farm was *not* a material change of use in that particular instance. Crucially, the overall farm operation was ongoing and the use of the structures for farming never lapsed – only the type of animal changed. **Relevance:** This case is clearly distinguishable from the present situation. In our case, the farm use had

ceased entirely; we are dealing with a **restart of a defunct use**, not a simple swap of cattle for pigs on a working farm. Thus, 311365-21 does not assist the piggery owner – if anything, it underscores that only continuous agricultural uses might avoid being “material,” whereas here there was a complete break in use.

- **ABP-317633-23 (2023) – Long-Disused Site Entrance:** The Commission ruled that **reactivating a long-disused site entrance** (gate/access that hadn’t been used in years) **was development and not exempted**. Even though an entrance is a minor feature, once its use had lapsed, opening it up again constituted a material change requiring permission. **Relevance:** This directly bolsters the appellant’s case. If an **unused gate** needs permission to be brought back into use after years, then *a fortiori* an **entire piggery operation** (with far greater impacts and a much longer period of disuse) requires permission to restart after decades. ABP-317633-23 illustrates the principle that **time and disuse matter** in determining exemption – a precedent highly applicable to the situation at hand.

12. Conclusion and Order Sought

In conclusion, there are **two independent grounds** on which the Commission can determine that the piggery’s reactivation is **development that is not exempted development**:

- **Abandonment leading to Material Change of Use:** The piggery use was long abandoned (as evidenced by the 1995 declaration of “Disused” status, the 2010 and 2017 planning records, the absence of any herd number, and the fact that new dwellings were permitted nearby in the meantime). Its reactivation in 2023 is therefore a **new, material change of use** of the land and buildings. This constitutes “development” requiring planning permission under Section 3(1). No existing use rights remained that could simply be “continued” after such a long gap, and the agricultural exemptions in the Regulations do not apply to what is effectively a **new commencement of use** in planning terms.
- **Unauthorised Works to Structures:** The physical works undertaken to facilitate the reactivation (such as the removal of ventilation chimneys, refurbishment and internal fit-out of the buildings, etc.) are **development in their own right** under the Act’s definition of “works.” These works do not fall under any exempted development class, especially considering they were done to a long-abandoned structure to enable a new use. In any event, they materially altered the external appearance of the sheds (e.g. changing the roofline by removing chimneys), which

by itself breaches conditions for the agricultural exemptions. Thus, quite apart from the change of use, the **works themselves required permission** and none was obtained – rendering those works (and by extension the resumed use that relies on them) unauthorised.

Either of the above grounds alone is sufficient to require planning permission for the piggery's reactivation. Together, they present an **overwhelming case** that the current operation is not lawful without a grant of permission.

Importantly, public policy considerations and the **proper planning and sustainable development of the area** strongly favor the Commission making a clear determination in this regard. To allow an intensive piggery to resume operations after decades of inactivity, in the midst of what is now a settled residential locale, with no planning oversight, would set a very troubling precedent and undermine confidence in the planning system. Residents who invested in homes and relied on the long cessation of that piggery use (and on the Council's representations of its disuse) have now had their amenity abruptly and severely compromised with no recourse through the normal planning process. Endorsing the idea that such a use can simply "spring back" after decades, **circumventing the standard permission requirements**, would effectively create a loophole in the system and reward a form of ambush development. This is precisely what the drafters of the Act sought to prevent by defining development broadly and by requiring **fresh permission after a use has been abandoned**. The integrity of the planning system – as well as basic fairness to the appellant and other affected residents – hinges on ensuring that such a significant change is subject to proper scrutiny via a planning application, rather than allowed to continue unregulated.

Order Sought: For the reasons detailed above, the Commission is respectfully requested to **DETERMINE, pursuant to Section 5(3) of the 2000 Act, that the reactivation of the piggery at Rathiddy Road, Knockbridge, Co. Louth (Eircode A91 P8RC) – including the housing of pigs and all associated works carried out to recommence that use – constitutes development which is not exempted development**. Consequently, the owner must obtain a valid grant of planning permission before the piggery use can lawfully continue. The appellant asks the Commission to overturn the Louth County Council declaration and to bring clarity (and relief to the local residents) by ruling that **planning control applies** to the piggery's operation going forward.

Appendices Bundle

Appeal under Section 5(3) of the Planning and Development Act 2000 (as amended)

Appellant: Brendan Marry

Planning Authority: Louth County Council

Planning Reference: S5 2025/64

Decision Date: 12/09/2025

Site Address: Rathiddy Road, Knockbridge, Co. Louth, A91 P8RC

Index of Appendices

1. **1995 Planning Submission (Ref. 95/271)** – Teagasc letter and livestock housing calculations identifying Buildings O and P as *“Disused Piggery”*.
2. **2010 Planning Submission (Ref. 10/146)** – Schedule of buildings describing buildings O and P as *“Old Piggery (Disused)”*.
3. **2017 Planning Submission (Ref. 17/548)** – Documentation again describing buildings O and P as *“Old Piggery (Disused)”*.
4. **2019 Residential Permission (Ref. 19/221)** – a) Grant of permission for appellant’s dwelling 20m from piggery, without odour/amenity conditions; b) Planner’s report for appellant’s dwelling 20m from piggery, without odour/amenity conditions; c) Site map of appellant’s dwelling. The building storing the pigs is located 20 meters South of the site outline.
5. **Email from Louth County Council Officer (2 April 2024)** – Confirmation piggery had been *“recently brought back into use for fattening pigs.”*
6. **Department of Agriculture Confirmation** – No pig herd number registered for this site. 6.a – AIE response; 6.b – Further clarification
7. **Photographic Evidence** – Removal of chimneys/structural alterations affecting odour dispersal. Photo 1 - May 2009 imagery displays 4 ventilation chimneys. Photo 2 – January 2025 displays that these chimneys have been removed with no planning permission sought.
8. **EPA Direction to Louth County Council** – Requirement for odour assessment report (**Note: Odour assessment not furnished to appellant by Louth County Council, AIE request submitted on 19/09/2025**).
9. **Louth County Council Section 5 Decision (S5 2025-64)**

10. Louth County Council Section 5 Planner's Report

Note: Some appendices (e.g., planning file extracts) are printed double-sided as downloaded from the Louth ePlanning system.



AGRICULTURE AND FOOD DEVELOPMENT AUTHORITY

DUBLIN ROAD DUNDALK CO LOUTH.
TEL 042-32263 FAX 042-32316

18th April 1995

Mr. H. Fitzpatrick,
Secretary,
Louth County Council,
Crowe Street,
Dundalk.

Dear Sir,

Please find enclosed, planning application on behalf of Mr. Seamus Kirk, T.D., Rathiddy, Knockbridge, Dundalk, for an unroofed, walled silage pit, and effluent tank. All required drawings and specifications are enclosed for same.

It is also proposed to erect a cattle feeding shed with slatted tank and to convert an existing hayshed to a slatted livestock house, as shown on farmyard layout drawing. However as the total of roofed livestock sheds (Class 7) does not exceed 450 m² and planning permission is therefore not required for these developments, I have not enclosed any detailed drawings of same.

I hope you find this application satisfactory. If you have any queries, please contact me at above address.

Yours faithfully,

Comhairle Chontae Louth

Pat McGuinness
Pat McGuinness
Agricultural Adviser

Encl.

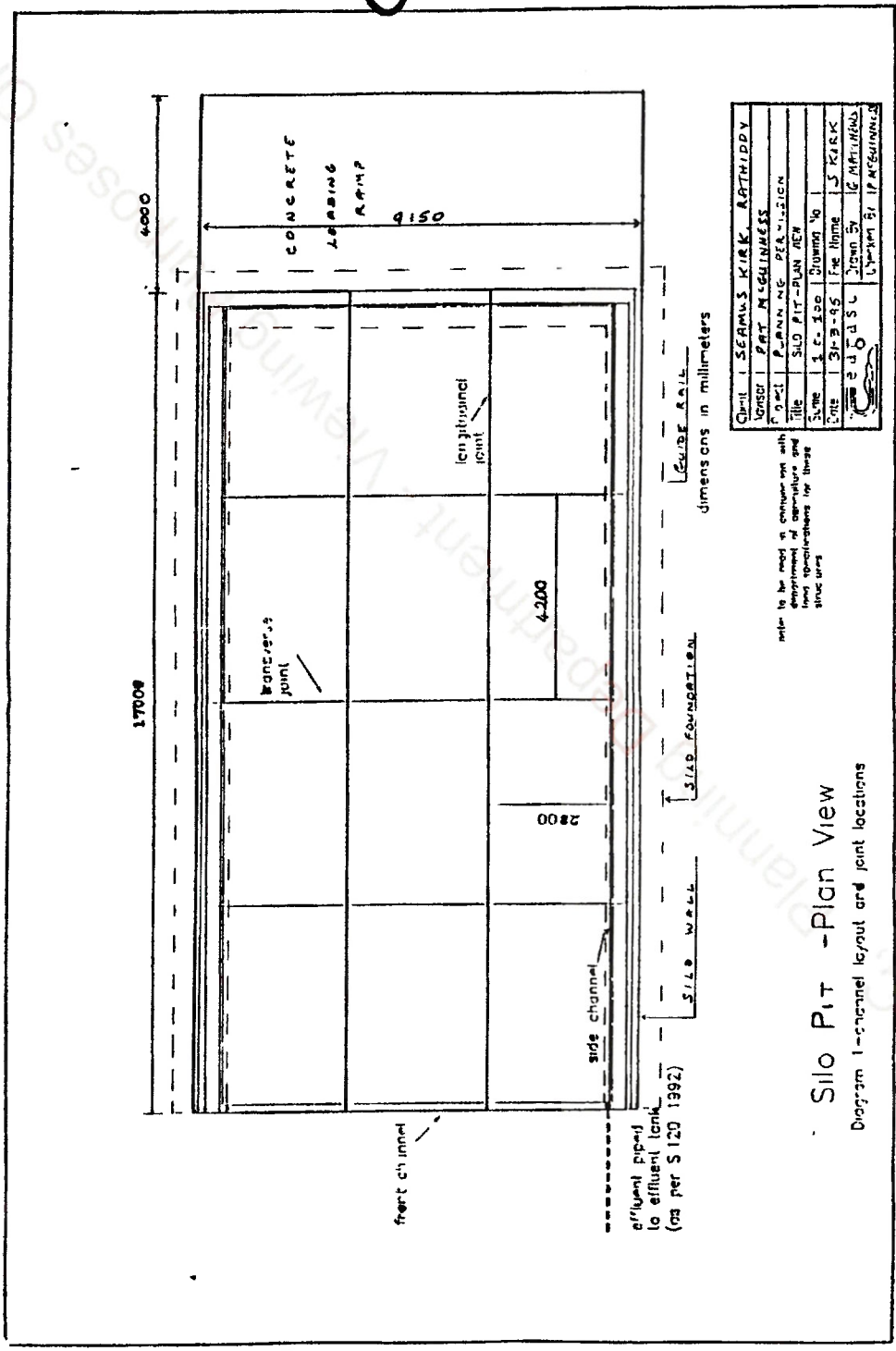
LIST OF EXISTING AND PROPOSED STRUCTURES

A	-	Dwelling House	
B	-	Store - 7.0 m x 4.2 m	
C	-	Store - 11.7 m x 5.5 m	
D	-	Milking Parlour - 15.5 m x 6.0 m	CLASS. 7.
E	-	Collecting Yard - 6.0 m x 6.0 m	
F	-	Dispersal Yard - 13.0 m x 7.1 m	
G	-	Garage and Store - 9.1 m x 5.4 m	
G1	-	Calf House - 4.6 m x 5.4 m	= 25m ²
H	-	Machinery Shed - 9.1 m x 6.5 m	
H1	-	Calving Box - 4.6 m x 5.4 m	= 25m ²
I	-	Cubicle house - 13.7 m x 6.5 m with slatted tank - 17.0 m x 1.8 m x 1.8 m	= 89m ²
PROPOSED ✓ J	-	Hayshed - 14.2 m x 7.6 m	= 108m ²
J1	-	Proposed Slatted Tank - 17 m x 2.4 m x 1.8 m	
K	-	Proposed slatted tank - 9 m x 3.0 m x 1.8 m	
PROPOSED ✓ K1	-	Proposed Feeding shed - 13.7 m x 7.6 m with slatted tank 20 m x 3.0 m x 1.8 m	= 104m ²
L	-	Existing Silage Pit - 16.0 m x 10.0 m	
L1	-	Existing Loading Ramp - 10.0 m x 5.0 m	
M	-	Proposed Silage pit - 17 m x 9.15 m	
N	-	Proposed Loading Ramp - 9.15 m x 4.0 m	
O	-	Disused Piggery - 24.4 m x 13.5 m	
P	-	Disused Piggery + Slurry Pit - 12.4 m x 9.0 m	
Q	-	Bulk Bins and Storage Tank	
R	-	Well - domestic and farm supply	

CLASS 6
 TOTAL
 25
 25
 89
 108
 104
 TOTAL = 351m²

∴ LESS THAN 450 m² IN TOTAL AND 1 ~~PROPOSED~~ PROPOSED
 ARE LESS THAN 300m² (ONLY 212m²) THEY ARE EXEMPTED.
 OK 15/5/95.

27/1/95



Drawn by
J. Kirk
27/1/95

Silo Pit - Plan View
Diagram 1-channel layout and joint locations

FARMYARD LAYOUT PLAN for

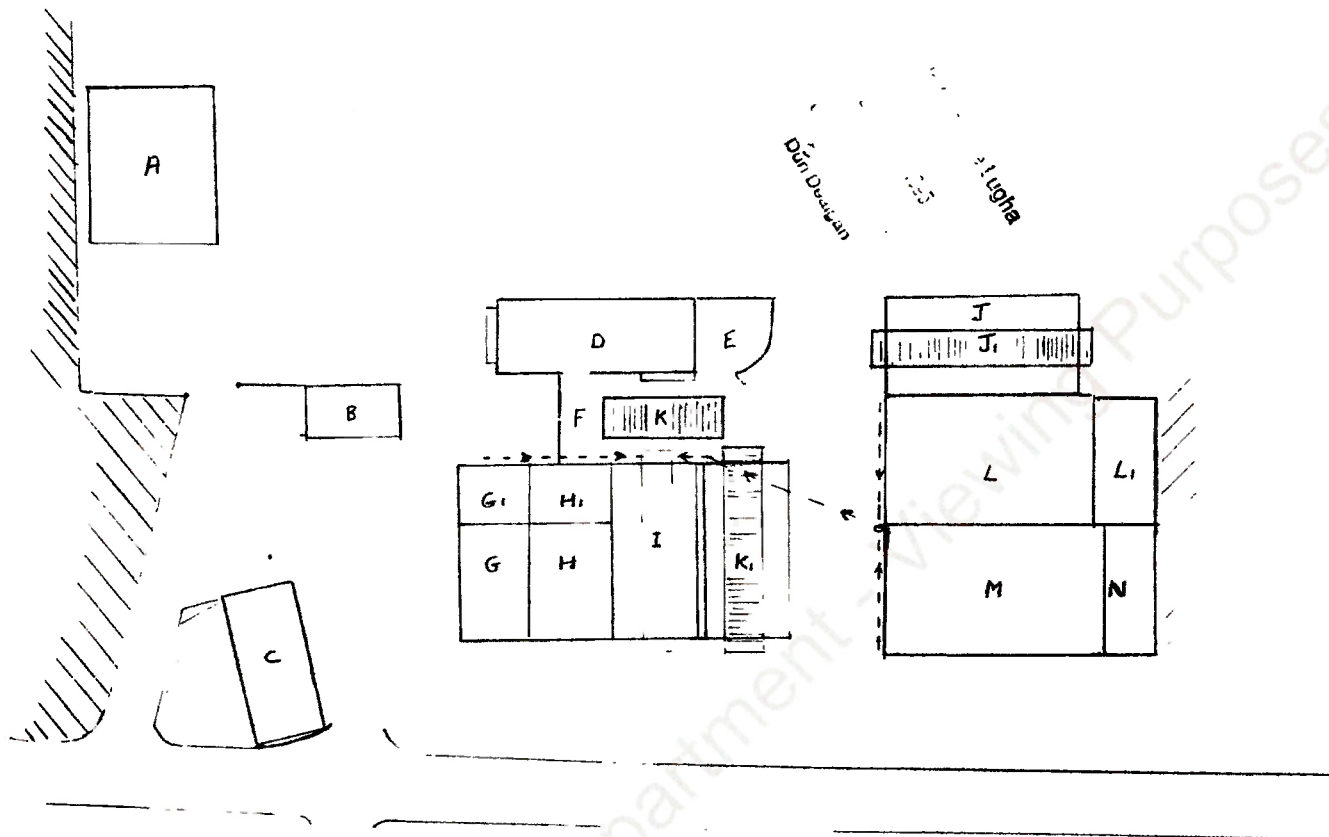
MR SEAMUS KIRK TD

RATHIDY, KNOCK BRIDGE

PROPOSED WORKS IN RED

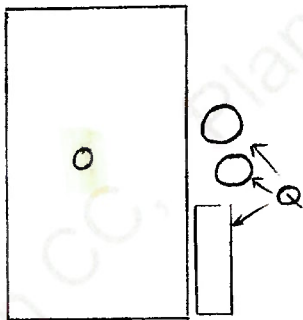
SCALE 1 = 400

SOILED WATER DRAINS -->



○ □ R

← Z



5/6/1995

CLIENT	MR SEAMUS KIRK TD
ADVISER	PAT MCGUINNESS
PROJECT	PLANNING & PERMISSION
DATE	18 th APRIL 1995
DRAWN BY	PAT MCGUINNESS
	TEAGASC
	DUNDALK

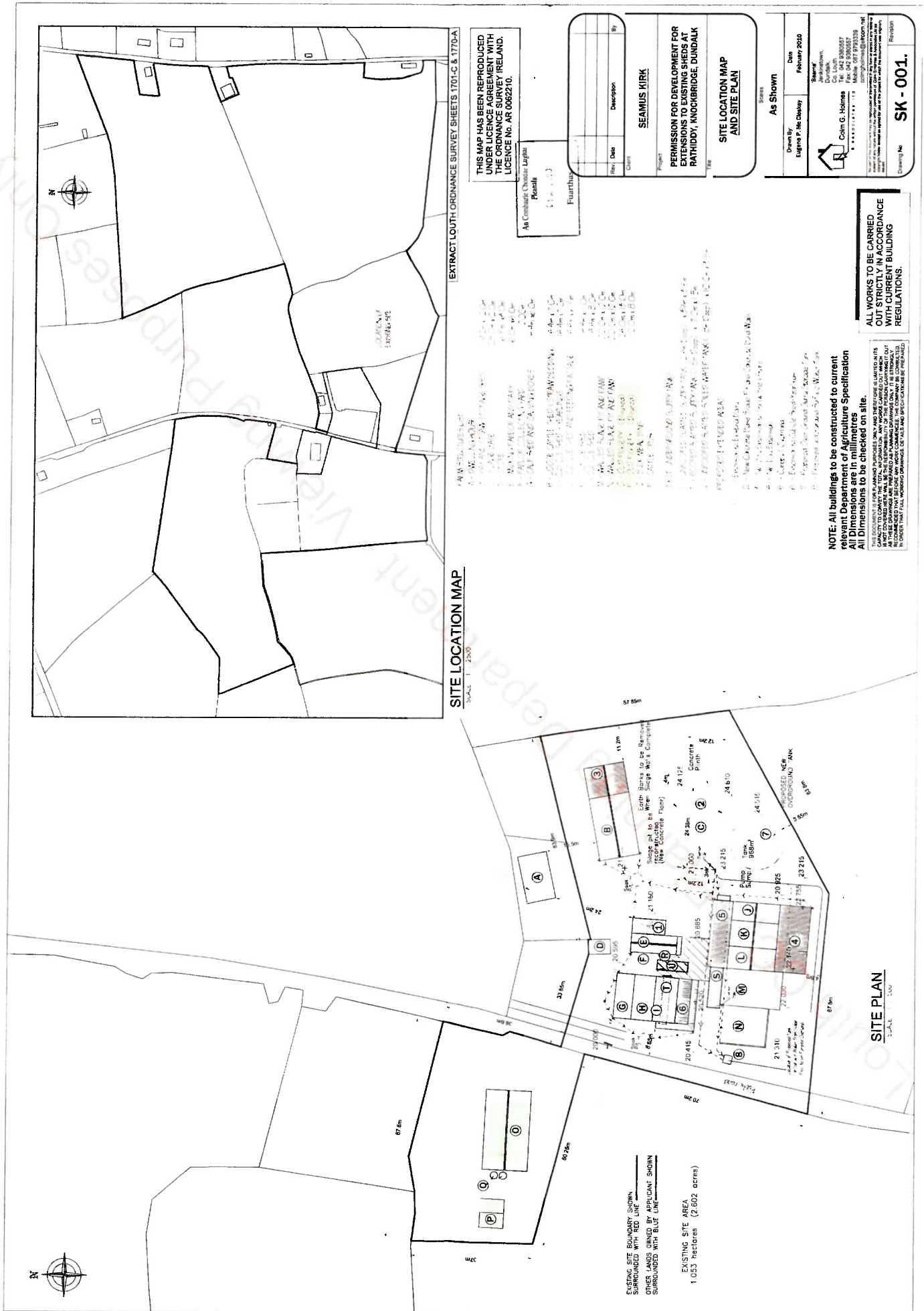
LIST OF EXISTING AND PROPOSED STRUCTURES

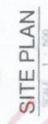
- A - Dwelling House
- B - Store - 7 0 m x 4 2 m
- C - Store - 11 7 m x 5 5 m
- D - Milking Parlour - 15 5 m x 6 0 m
- E - Collecting Yard - 6 0 m x 6 0 m
- F - Dispersal Yard - 13 0 m x 7 1 m
- G - Garage and Store - 9 1 m x 5 4 m
- G1 - Calf House - 4 6 m x 5 4 m
- H - Machinery Shed - 9 1 m x 6 5 m
- H1 - Calving Box - 4 6 m x 5 4 m
- I - Cubicle house - 13 7 m x 6 5 m with slatted tank - 17 0 m x 1 8 m x 1 8 m
- J - Hayshed - 14 2 m x 7 6 m
- J1 - Proposed Slatted Tank - 17 m x 2 4 m x 1.8 m
- K - Proposed slatted tank - 9 m x 3 0 m x 1 8 m
- K1 - Proposed Feeding shed - 13 7 m x 7.6 m with slatted tank 20 m x 3 0 m x 1 8 m
- L - Existing Silage Pit - 16 0 m x 10 0 m
- L1 - Existing Loading Ramp - 10 0 m x 5 0 m
- M - Proposed Silage pit - 17 m x 9 15 m
- N - Proposed Loading Ramp - 9 15 m x 4 0 m
- O - Disused Piggery - 24 4 m x 13 5 m
- P - Disused Piggery + Slurry Pit - 12 4 m x 9 0 m
- Q - Bulk Bins and Storage Tank
- R - Well - domestic and farm supply

27/1/95

Cc

Dân ...





LOUTH COUNTY COUNCIL

Planning Section, Town Hall, Crowe Street, Dundalk, County Louth A91 W20C
Tel:042/9335457 Fax:042/9320080

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

NOTIFICATION OF GRANT OF PERMISSION

TO: Brendan Marry & Crona Tansey
c/o KIERAN LALLY & ASSOCIATES
Tateetra
Dundalk
Co.Louth
A91 FY80

29/07/2019

Register Reference Number: 19221

Date Application Received: 25/03/2019

Description of Development: Permission for a replacement dwelling, a garage, the installation of a wastewater treatment system, percolation area and all associated site works.

Application Type: PERMISSION

Name of Applicant:
Brendan Marry & Crona Tansey

Location Address:
Rathiddy
Dundalk
Co Louth

Permission is hereby granted for the development described above, subject to the 8 conditions set out in the Schedule attached.


Anne D. Callan,
Administrative Officer

NOTES

1. Unless otherwise specified in this decision and subject to certain exceptions, a permission will, on the expiration of a period of five years beginning on the date of grant, cease to have effect as regards:
(a) in case the development is not commenced during that period, the entire development, and
(b) in case the development is commenced during that period, so much of the development as is not completed within that period.
2. A grant of Outline Permission will cease to have effect on the expiration of a period of three years beginning on the date of grant, unless a subsequent application for permission has been made within that period.
3. A grant of Outline Permission does not authorise the carrying out of any development. A subsequent grant of Permission must be obtained before development commences.

LOUTH COUNTY COUNCIL

REFERENCE NO. 19/221

CONDITIONS

1. The development shall be carried out in strict accordance with plans and particulars lodged with the Planning Authority on 25th March 2019 as amended by the revised plans and particulars received on 11th June 2019 except as may otherwise be required to comply with the following conditions.

Reason: To cater for orderly development and in the interests of sustainable development.

2. The development hereby granted is required to comply with the following infrastructure requirements:

(a) Adequate visibility shall be made available and maintained for a minimum of 50 metres on either side of the entrance from a point 3.0 metres back in from the edge of the road carriageway over a height of 0.6metres to 1.05 metres above road level and no impediment to visibility shall be placed, planted or allowed to remain within the visibility triangle as detailed on plan and related agreements submitted with this application.

(b) Where it is necessary to remove hedges/banks/walls to provide adequate sightline visibility, this must be completed prior to the development on site and any new boundary wall/fence/hedge shall be located behind the visibility splay. Any pole, column, tree or sign materially affecting visibility must also be removed.

(c) Surface water from the site shall be disposed of within the boundaries of the site and shall not discharge onto the public road or adjoining property. Surface water attenuation and discharge to be in accordance with the submitted drawings and soakaway report dated 25th March 2019.

(d) The applicant/developer shall liaise with statutory bodies and the Public Utility Authorities and carry out all diversions, re-routing, modifications, etc. as required during the construction of the works. The applicant/ developer shall arrange to carry out any works required by statutory bodies and the Public Utility Authorities.

(e) If so required, the applicant/developer shall make all necessary arrangements to apply for and obtain a Road Opening License(s) from Louth County Council in respect of all openings in public areas and shall pay Road Opening License Fees and road restoration costs. The applicant shall abide by the conditions as set out in the said license(s).

REFERENCE NO: 19/221

(f) The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road/footpath arising from the construction work and shall either make good any such damage forthwith to the satisfaction of Louth County Council or pay to the Council the cost of making good any such damage on a demand thereof being issued by the Council.

(g) All necessary measures, as may be determined by the Planning Authority, shall be taken by the developer/contractor/servants/agents to prevent the spillage or deposit of clay, rubble or other debris on adjoining public roads or footpaths during the course of the development works. The developer shall ensure that all vehicles leaving the development are free from any material that would be likely to deposit on the road and in the event of any such deposition; immediate steps shall be taken to remove the material from the road surface. The developer shall be responsible for the full cost of carrying out of road/footpath cleaning work.

(h) During the course of construction work the developer shall provide on-site covered skip or other suitable receptacle for the deposit therein of all rubbish, litter, paper, packaging, rubble and other such materials arising from the works and shall ensure that the site and its environs are maintained at all times in a clean and tidy condition.

Reason: In the interests of traffic safety.

3. Except where required to comply with Condition No. 2, all existing hedgerow boundaries shall be permanently retained.

Reason: To ensure the continuity of amenity afforded by existing vegetation.

4. The existing cottage shall not be occupied at any time other than for the purposes ancillary to the residential use of the existing dwelling and shall not give rise to any subdivision of the existing dwelling for use as an independent residential unit or any other use.

Reason: To prevent the creation of additional dwelling units and in the interest of preserving the residential amenity of the area.

5. Landscaping and boundary treatment shall be carried out in accordance with the landscaping plan submitted to the Planning Authority on 25th March 2019. Planting as required above to be carried out in the first planting season following commencement of building operations and permanently retained thereafter. Any plant which fails in the first season shall be replaced.

Reason: In the interests of visual amenity.

REFERENCE NO: 19/221

6. Finished floor level of the proposed dwelling shall be as identified on the Site Layout Plan drawing received 25th March 2019.

Reason: To cater for orderly development and in the interests of sustainable development.

7. The Wastewater Treatment and Disposal System shall comply with the Environmental Protection Agency (EPA) Code of Practice: Wastewater Treatment and Disposal Systems serving Single Houses (October 2009). In this regard, the development hereby granted is required to comply with the following requirements:

Packaged Wastewater Treatment System

(a) The development shall be serviced by a packaged wastewater system conforming to I.S. EN 12566-3 or is Irish Agrément Bord Certified. The system shall comply with the EPA Code of Practice - Section 9. The system shall be installed in accordance with the manufacturer's instructions. Installation shall be supervised and certified by a competent person or the system supplier and the work documented for future inspection by the Planning Authority.

Polishing Filter

(b) The effluent from the packaged wastewater system shall be discharged to a polishing filter. The polishing filter shall comply with the EPA Code of Practice - Section 10. The installation shall be overseen and certified by a competent person. This certificate shall be forwarded to the Planning Authority by the Site Assessor prior to the occupation of the dwelling house. The site of the polishing filter shall be staked and roped off before any construction activities begin, to make others aware and to keep traffic and materials off the site.

(c) Invert level of percolation stone under the sand filter to be 100mm below existing ground level.

Location of System

(d) The wastewater treatment and disposal system shall not be located at any position other than that indicated on the site layout map approved by the Planning Authority. The treated wastewater shall not be discharged to any watercourse (including drains).

Minimum Separation Distances

(e) The minimum distances of separation of the wastewater treatment and disposal system from relevant features shall be as set out in the EPA Code of Practice - Section 6 Table 6.1

3.0 PLANNING HISTORY:

There is no recent planning history for the site.

4.0 DEVELOPMENT PLAN & POLICY CONTEXT:

Louth County Development Plan 2015 – 2021:

The site is located within Development Zone 5 where it is an objective *“To protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone”*.

Relevant policies include:

- Section 2.19.7 (Development Management Assessment Criteria for On-Off Rural Housing) of the Louth County Development Plan states that regard will be given to the following Development Management Assessment Criteria for One-Off Rural Housing:
 - The cumulative visual impact and pattern of development of existing houses and permissions granted in the vicinity of the site;
 - The cumulative visual impact, pattern of development and number of houses developed and granted permission on the landholding;
 - The quality and capacity of the road network serving the site;
 - Breaking the skyline and visual impact;
 - Existing hedgerows and trees which would be affected by the proposed development;
 - Use of materials which are traditional and indigenous to the area as far as practical;
 - Impact on farming practice and rural based activities;
 - Traffic safety;
 - Impact on natural resources and landscapes;
 - Siting of house, how house fits into the landscape and avails of existing natural shelter;
 - Site suitability in terms of drainage and compliance with EPA guidelines;
 - Suitable landscaping proposals;
 - Orientation so as to maximize heat and light from the sun;
 - Sustainable energy uses;
 - Flood risk considerations where apparent;
 - Regard to applicable policies in Chapter 7 ‘Transport’.
- Section 2.19.9 (Replacement Houses). There is growing concern that the tendency to replace, rather than upgrade, older rural dwellings is depleting our vernacular rural dwellings and vernacular structures, the preservation of which is increasingly viewed as an important element of our built heritage. Accordingly, it is the Council's policy to seek to retain vernacular

dwelling and structures and promote their sympathetic renovation and continued use rather than replacement. For this reason there will be a presumption against the demolition of vernacular dwellings and structures where restoration or adaptation is a feasible option. Permission will only be considered where it is demonstrated that a vernacular dwelling is not reasonably capable of being made structurally sound or otherwise improved. If a dwelling is not considered to be vernacular or does not make an important contribution to the heritage, appearance or character of the locality, planning permission will be considered for a new dwelling. In cases where a dwelling has been recently destroyed by fire or through an accident, planning permission will be considered for a replacement dwelling.

- Policy SS 26: To require that the design and siting of the proposed dwelling is such that it does not detract from the rural character of the landscape or the visual amenities of the area. In this regard, applicants will be required to demonstrate that the proposal is consistent with the document Building Sensitively and Sustainably in County Louth and the guidelines contained in Section 2.20.
- Policy SS 40: To apply a presumption against the demolition of vernacular dwellings where restoration or adaptation is a feasible option.
- Policy SS 41: To permit the replacement of a vernacular dwelling only where it is clearly demonstrated by way of a qualified structural engineers report that it is not reasonably capable of being made structurally sound or otherwise improved, where the roof, all external structural walls and internal walls are substantially intact and where the building was last used as an authorised habitable dwelling.
- Policy SS 42: To permit the replacement of a non-vernacular dwelling only where the roof, all external structural walls and internal walls are substantially intact and where the building was last used as an authorised habitable dwelling.
- Policy SS 43: To restrict the floor area of the replacement dwelling within all Development Zones to the maximum permitted floor area of the Development Zone in which it is located, or an additional 25% of the footprint of the existing house, whichever is the greater. Where the floor area of an existing dwelling is already in excess of the Development Zone limit, the replacement dwelling shall not exceed the original floor area (as per Table 2.9).
- Policy SS 44: To require that the overall size of the replacement dwelling does not have a visual impact significantly greater than the existing dwelling and that the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.

- Policy SS 45: To require the replacement dwelling to incorporate the footprint of the replaced house.
- Policy SS 46: To only consider a replacement dwelling which does not incorporate the footprint of the original dwelling where either;
 - (A) It is considered by the planning authority that the original dwelling position is unduly prominent and where an alternative position within the curtilage of the original dwelling would result in demonstrable landscape, heritage, access or amenity benefits,
 - Or
 - (B) It is considered by the planning authority that the original dwelling makes an important contribution to the heritage, appearance or character of the locality and where it is demonstrated that it is not reasonably capable of being made structurally sound (for residential purposes) or otherwise improved. In this situation, retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary non residential accommodation or a store, to form an integrated building group.
- Policy SS 47: To require that access to the public road for all replacement houses will not prejudice road safety or significantly inconvenience the flow of traffic.
- Policy SS 48: To require that all necessary services can be provided without significant adverse impact on the environment or character of the locality.
- Policy SS 51: To require that new dwellings and or extensions to existing dwellings within Development Zone 1-6 inclusive shall comply with the minimum site size and maximum cumulative gross floor areas as outlined hereunder in Table 2.9.

Table 2.9 Dwellings Gross Floor Area & Minimum Site Size

Development Zone	Minimum Site Size in Hectares	Maximum Cumulative Gross Floor Area in Square Metres
1	0.2	160*
2	0.2	220
3	0.2	220 (or See SS 52)
4	0.2	220 (or See SS 52)
5	0.2	220 (or See SS 52)
6	0.2	200

- Policy SS 53: To prevent the creation of ribbon development by not permitting more than four houses in a row along any public road. A minimum gap of 300 metres shall be maintained between such

developments. An exception to this requirement may be considered where the dwelling is required to meet the housing needs of a son/daughter/foster child of a qualifying landowner and where the planning authority is satisfied that there is no other suitable site available on the landholding.

- Policy SS 59: To require that access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic by demonstrating compliance with the appropriate visibility and traffic safety standards as set down in Section 7.3.6 of the Plan.
- Policy SS 64: To require, where it is necessary to modify or remove the existing roadside boundary in the interest of traffic safety, that the new boundary is located behind the visibility sight line and that a new boundary consistent with the nature and character of the area is planted behind the visibility sight line.
- Policy SS 65: To protect groundwater and surface water from contamination from domestic effluent by ensuring that all sites requiring individual waste water treatment systems are assessed by suitability qualified persons in accordance with the recommendation contained in the "Code of Practice: Wastewater Treatment Systems for Single Houses", published by the Environmental Protection Agency (EPA), 2009.

Other Relevant Policy Documents to this proposal include:

- Guidelines for Planning Authorities: The Planning System & Flood Risk Management, 2009.
- EPA, 2009, Code of practice "Wastewater Treatment Systems for Single Houses.
- Louth County Council Development Contribution Scheme 2016-2021.

✓ **5.0 SUBMISSIONS/OBSERVATIONS:**

No submission or observations were received.

6.0 INTERNAL REPORTS/REFERRALS/PRESCRIBED BODIES:

- Infrastructure – Requests further information ✓
- Environment Section – No objection ✓
- Irish Water – No objection subject to connection agreement ✓

7.0 PRE-PLANNING CONSULTATION:

There has been pre-planning in relation to this proposal (David Hall).

8.0 PLANNING CONSIDERATIONS:

The main planning considerations in the determination of this application are:

Principle of Development/Land Use Zoning/Development Control Zone:

The subject site is located within Development Zone 5 in the Louth County Development Plan, 2015-2021.

The documentary evidence that has been supplied below by the applicant is noted and the Local Planning Authority is satisfied that the applicant would have on balance qualified under local needs qualifying criteria no.2 (lived for a minimum period of 10 years).

- Letter from Principal
- Letter from Parish priest
- Letter from GAA club
- Letter of consent from landowner.
- Utility bill indicating home address i.e. Bank statements.
- Land registry certificate indicating parcels of land within family ownership.
- Map indicating family home within 6km of the application site.

However given the applicant is seeking planning permission for a replacement dwelling Local Need justification is not applicable in this instance and an occupancy condition would not be applicable.

The applicant^{tion} would be applicable to the replacement dwelling policies outlined in the County Development Plan.

Design & Appearance & Impact to visual amenity

It is considered the size, scale and massing the proposed dwelling would be proportionally designed. The proposal would incorporate traditional vernacular features which a narrow plan, stone finish, windows of vertical emphasis and is considered on balance acceptable.

The approaching view from the north east would be viewed in the context of the existing on site vegetation that would aid integration.

Given this it is not considered the proposed dwelling would not cause any harmful impact to the visual amenity of the surrounding area.

The existing dwelling on site shall be retained to be used ancillary to the main dwelling and shall be conditioned in final grant of permission.

Traffic Safety:

The site would access and egress onto a Class 3 road. The technical standards of the County Development Plan 2015-2021 require new entrances to provide sight lines of 75metres x 3m x 1.05m to 0.6m in each direction.

The applicant has indicated sightlines of 50m x 3m in both directions from the proposed entrance on the basis of a speed survey. However the visibility splays would cross third party lands of which no third party consent has been provided.

The comments by infrastructure are noted and further information is required in this instance.

Impact on neighbouring properties:

There are no neighbouring properties in proximity that would be affected by the proposal.

Given this it is not considered the proposed development would not have any harmful impact to the residential amenity of any neighbouring property in terms of any overbearing, overlooking, overshadowing, loss of outlook or loss of natural light or devalue properties as a result.

Site Area/Floor Area Ratio:

The proposed floor area of the dwelling is 215sqm on a site area of 0.25ha. It is considered the development meets the requirements of Policy SS51.

Wastewater disposal:

The proposed development is to be serviced by a waste water treatment system and percolation area. Environmental compliance have been consulted and have indicated no objection.

Other material considerations:

Natura 2000 Sites:

The site is not located within a Natura 2000 site. Having regard to the nature and scale of the proposed development and given the separation distance to the Natura network where there are no source/pathway/receptor routes between the site and these sites, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site ((Special Area of Conservation or Special Protected Area). As such an Appropriate Assessment (AA) is not required.

EIA Preliminary Screening:

The proposed development is sub-threshold, in terms of Schedule 5 of the Planning & Development Regulations 2001(as amended). Based on information provided; having considered the nature, size and location of the development, it is considered that there is no real likelihood of significant effects on the environment.

Flooding Matters

The subject site is not located within the area identified in the OPW Draft Preliminary Flood Risk Assessment Flood Maps.

The subject site is not located within the area of known fluvial flooding in the OPW Draft Preliminary Flood Risk Assessment Flood Maps.

The subject site is not located within the area of known pluvial flooding in the OPW Draft Preliminary Flood Risk Assessment Flood Maps.

Zone of Archaeology:

The site is not located within any zone of Recorded Monuments and Places.

Development Contributions:

The proposed dwelling would be subject to development contributions as set out in Article 5.0 of the Louth County Council Development Contribution Scheme 2016-2021. This would equate to €4,200 for Class 1 Infrastructure and €1,200 for Class 2 Amenity, or €5,400 cumulatively.

Conclusion:

Given the concerns above it is considered further information is required in this instance.

9.0 RECOMMENDATION:

It is recommended that the applicant be requested to submit the following further information to enable the application to be considered.

Schedule of Further Information to be Sought

1. Infrastructure Section request the following additional information in relation to the development:

a) The applicant shall demonstrate clearly on a revised site layout plan, that minimum visibility sightlines of 75m x 3.0m x 0.6m – 1.05m can be achieved at the proposed entrance in accordance with the standards set out in Table 7.4 of the Louth County Development Plan 2015-2021.

b) If works are required to lands outside the applicant's ownership to provide the minimum sightline requirements as outlined in item 1(a) above, the applicant shall submit a **formal legal agreement together with a map** showing the extent of the lands so affected outside the site boundary and shall detail the works required to comply with the visibility splay together with an undertaking from the landowner's solicitor that the agreement will be entered as a burden against the title of the land. Where it is necessary to remove hedges/banks/walls to provide adequate sightline visibility, the new boundary wall/fence/hedge shall be located behind the visibility splay.

Should clarification be required the applicant may wish to contact Pat O'Rourke (Infrastructure Section) before submitting the further information.

2. The applicant is requested to submit revised Newspaper and Site Notices should the above Further Information response result in a significant alteration from the original proposal in relation to site size, site layout, development location or description etc., in accordance with Article 35(1)(c) of the Planning & Development Regulations 2001 (as amended) which include reference to these alterations.

Where revised Newspaper and Site Notices are required the applicant shall submit in writing a description of the significant alterations e.g. provision of a Wastewater Treatment System, amendment to site size, site layout etc. to provide clarity and to update the details previously submitted under Section 9 'Description of Proposed Development' on the planning application form.

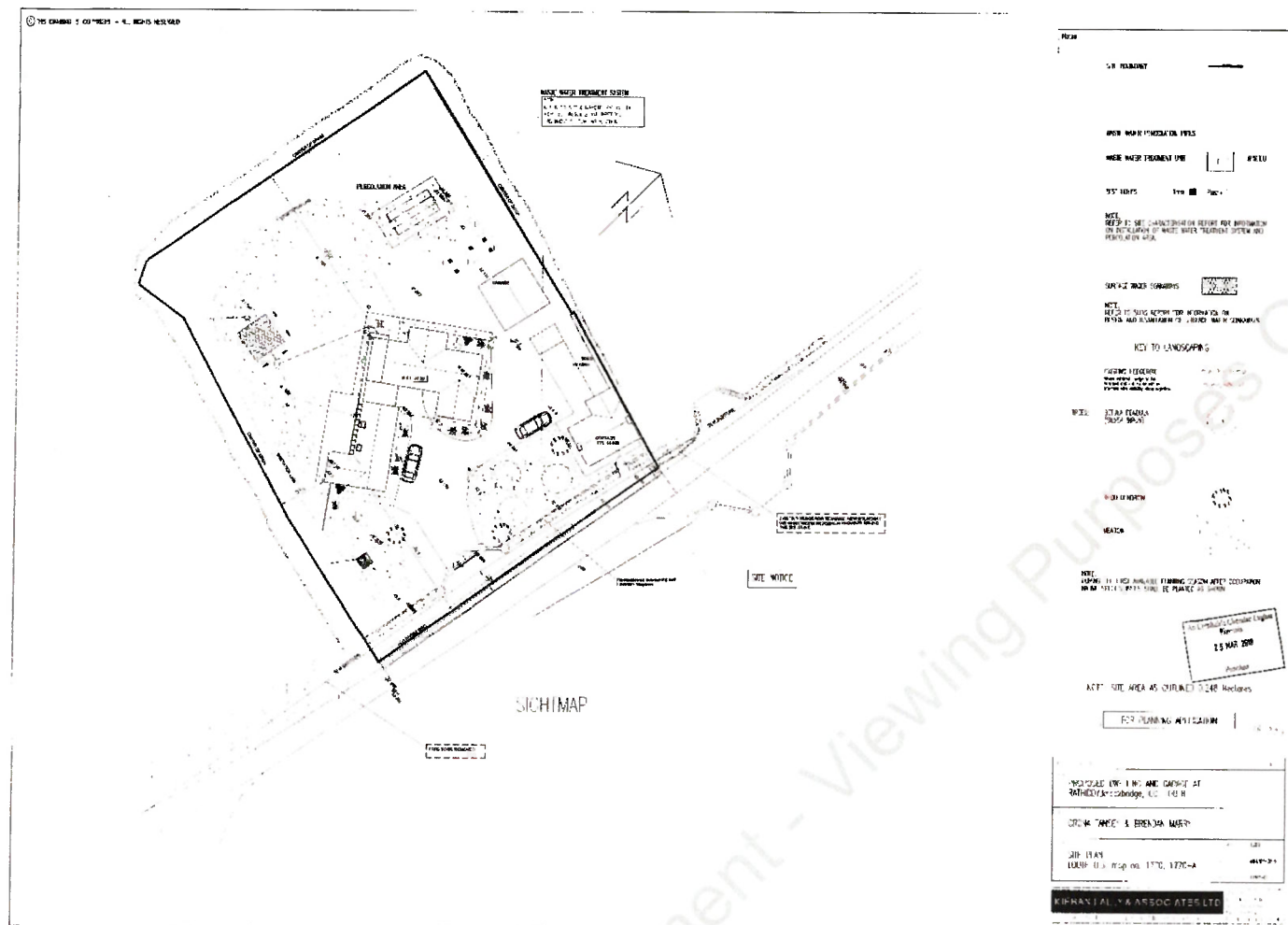
Gerard Kellett
Gerard Kellett
Assistant Planner
Date: 9.5.19

David Hall
David Hall
Executive Planner
Date: 9/5/19

Golette Moss
Golette Moss
A/Director of Service
Date: 10/05/19









Message ID - 36fbc1228c9a499aa6804150c066620b - 35751918
Archived on 4/2/2024 12:00:45 PM. Printed on 3/4/2025 3:05:37 PM.

Time Sent 4/2/2024 12:00:05 PM
Time Received 4/2/2024 12:00:05 PM
Time Archived 4/2/2024 12:00:45 PM
From: Joe McGuinness <Joe.Mcguinness@louthcoco.ie>
To: David Hanratty <David.Hanratty@louthcoco.ie>
Subject: RE: Rathiddy, Knockbridge

Sound and thanks

From: David Hanratty <David.Hanratty@louthcoco.ie>
Sent: Tuesday, April 2, 2024 10:48 AM
To: Joe McGuinness <Joe.Mcguinness@louthcoco.ie>
Subject: FW: Rathiddy, Knockbridge

FYI

From: Sean Callaghan <sean.callaghan@louthcoco.ie>
Sent: Tuesday, April 2, 2024 10:34 AM
To: David Hanratty <David.Hanratty@louthcoco.ie>
Subject: RE: Rathiddy, Knockbridge

David

Myself and David were out last year investigating an odour complaint from a piggery unit owned by Seamus Kirk. No evidence of water pollution found. Regarding odour complaint the was no further action we can take. The level of odour will vary depending on the weather, wind direction etc. The unit predates the neighbouring house and had been recently brought back into use for fattening pigs.
Sean

From: David Hanratty
Sent: Tuesday, April 2, 2024 9:42 AM
To: David Johnston <David.Johnston@louthcoco.ie>; Ben Gallagher <ben.gallagher@louthcoco.ie>; Sean Callaghan <sean.callaghan@louthcoco.ie>; Linda Dollard <linda.dollard@louthcoco.ie>
Subject: FW: Rathiddy, Knockbridge

Hi All,

Has anyone ever had any history with complaints about a pig farm in Rathiddy, Knockbridge?

Regards,

Appendix 6.a - DAFM confirmation of no Pig Herd Number located

**An Roinn Talmhaíochta,
Bia agus Mara
Department of Agriculture,
Food and the Marine**



9th September 2025

Mr. Brendan Marry
By Email

Re: AIE request [AIE.25.313]

Dear Mr. Marry,

I refer to the request you made under the European Communities (Access to Information on the Environment) Regulations 2007 to 2018 (S.I. No. 133 of 2007, S.I. No. 662 of 2011, S.I. 615 of 2014 and S.I. No. 309 of 2018) (hereafter referred to as the AIE Regulations) for access to information held by the Department of Agriculture, Food and the Marine. Your request sought:

'I request information on whether the Department of Agriculture, Food and the Marine has issued a herd number for pigs registered to the farm located at Rathiddy, Knockbridge, Co. Louth, A91 P8RC. In particular, the building marked as O in the attachment which is located on the farm of the above address (Eircode belongs to building A in attachment).

If a herd number has been issued, please provide:

- 1. The date of registration*
- 2. The type of herd number issued*
- 3. Any conditions or restrictions attached to that registration'.*

Summary of Decision

I have made a decision today, 9th September 2025 on your request. Following examination of material held by The Department of Agriculture, Food and the Marine, I have been unable to locate any records relevant to your request. I therefore refuse your request.

I have also been unable to determine whether any other public authority might possess the records that you have requested.

Right of review

Under Article 11 of the AIE Regulations you have a right to request an internal review of this decision. An internal review involves a complete reconsideration of the matter by a member of the staff of this Department, unconnected with the original decision, of the same or higher rank than the original decision-maker, who may affirm, vary or annul the original decision.



If you wish to request an internal review, you can do so by writing to Freedom of Information Unit, AIE Officer, Department of Agriculture, Food and the Marine, Government Buildings, Old Abbeylax Road, Portlaoise, Co. Laois R32 RPA6. You may also submit your appeal by e-mail to: foi@agriculture.gov.ie, referring to this decision, quoting the AIE reference number. This request must be made within one month of the date of receipt of this decision. The decision of an internal review will be communicated to you within one month of receipt of your request for an internal review.

Please contact me at 046-9082900 or joanna.balfe@agriculture.gov.ie, if I can assist you in any matter relating to your request.

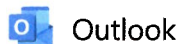
Yours sincerely,

A handwritten signature in black ink, which appears to read 'Joanna Balfe', is written over a horizontal line.

Joanna Balfe

Higher Executive Officer

Appendix 6.b - DAFM further clarification over absence of Pig Herd Number



Fw: AIE Request AIE.25.313

From Brendan Marry <brendan.marry@outlook.com>
Date Fri 19/09/2025 17:17
To Brendan Marry <brendanmarry@hotmail.com>

From: Balfe, Joanna <Joanna.Balfe@agriculture.gov.ie>
Sent: Thursday 11 September 2025 15:28
To: 'Brendan Marry' <brendan.marry@outlook.com>
Subject: RE: AIE Request AIE.25.313

Dear Mr. Marry,

I refer to your queries below and note the following:

1. That no pig herd number registration currently exists or has existed relevant to the farm at Rathiddy, Knockbridge, Co. Louth, A91 P8RC – I have conducted searches based on the information received and can find no registration. However, I am unable to state categorically that none exists.
2. That no details of such a registration (e.g. date of issue, type of herd number, conditions/restrictions) are held by the Department of Agriculture, Food and the Marine. Again, I am unable to find any details of a registration based on the searches completed and information given.
3. That the refusal of my request is therefore based on the non-existence of such records, rather than on an exemption or other restriction under the AIE regulations. That is correct.

Thank you,
Best Regards
Joanna.

Joanna Balfe
Higher Executive Officer
Navan Regional Veterinary Office

An Roinn Talmhaíochta, Bia agus Mara
Department of Agriculture, Food and the Marine

Ofígi an Rialtais, Ath Luimnigh, Cill an Chairn, An Uaimh, Co. na Mi, C15Y2T3
Government Offices, Athlumney, Kilcarn, Navan, Co. Meath, C15Y2T3

T +353 46 9082900

www.agriculture.gov.ie

From: Brendan Marry <brendan.marry@outlook.com>
Sent: Thursday 11 September 2025 14:21

To: Balfe, Joanna <Joanna.Balfe@agriculture.gov.ie>

Subject: Re: AIE Request AIE.25.313

CAUTION This Email originated from Outside of this department. Do not click links or open attachments unless you recognise the sender and know the content is safe. Otherwise Please Forward any suspicious Emails to Notify.Cyber@agriculture.gov.ie.

Dear Joanna,

Thank you for your response on the 9th of September 2025 regarding my AIE request (AIE.25.313).

Before I consider seeking an internal review, I would be grateful if you could provide some clarification on the basis of your decision.

Your decision states that you were 'unable to locate any records relevant to my request'. Could you please confirm the following:

1. That no pig herd number registration currently exists or has existed relevant to the farm at Rathiddy, Knockbridge, Co. Louth, A91 P8RC
2. That no details of such a registration (e.g. date of issue, type of herd number, conditions/restrictions) are held by the Department of Agriculture, Food and the Marine.
3. That the refusal of my request is therefore based on the non-existence of such records, rather than on an exemption or other restriction under the AIE regulations.

I would be grateful if you could provide confirmation on these points so that I can fully understand the scope and reasoning of your decision before considering next steps.

Kind regards,

Brendan Marry

From: Balfe, Joanna <Joanna.Balfe@agriculture.gov.ie>

Sent: Tuesday 9 September 2025 11:36

To: 'brendan.marry@outlook.com' <brendan.marry@outlook.com>

Subject: AIE Request AIE.25.313

Dear Mr. Marry,

Re: AIE Request AIE.25.313

I refer to your request made under the AIE regulations for access to information held by the Department of Agriculture, Food and the Marine.

Please find attached a letter outlining my decision.

Thank you

Best regards

Joanna.

Joanna Balfe
Higher Executive Officer
Navan Regional Veterinary Office

An Roinn Talmhaíochta, Bia agus Mara

Department of Agriculture, Food and the Marine

Ofiigi an Rialtais, Ath Luimnigh, Cill an Chairn, An Uaimh, Co. na Mi, C15Y2T3

Government Offices, Athlumney, Kilcarn, Navan, Co. Meath, C15Y2T3

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An Roinn Talmhaíochta, Bia agus Mara

Tá an t-eolas sa ríomhphost seo, agus in aon cheangaltáin leis, faoi rún agus tá sé dírithe ar an bhfaighteoir/na faighteoirí beartaithe amháin agus níor cheart ach dóibh siúd é a úsáid. D'fhéadfadh an t-eolas seo a bheith faoi réir pribhléid dhlíthiúil agus ghairmiúil. Mura tusa faighteoir beartaithe an ríomhphost seo, níor cheart duit an teachtaireacht seo, nó aon chuid di, a úsáid, a nochtadh, a chóipeáil, a dháileadh nó a choinneáil. Má fuair tú an ríomhphost seo go hearráideach, cuir an seoltóir ar an eolas láithreach agus scríos gach cóip den ríomhphost seo ó chóra(i)s do ríomhaire, le do thoil.

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May 2009



January 2025



 Outlook

Fw: COM019620 Complaint regarding odour from pig farm, Co. Louth

From Brendan Marry <brendan.marry@outlook.com>

Date Fri 19/09/2025 17:31

To Brendan Marry <brendanmarry@hotmail.com>

From: Isabel Valera <I.Valera@epa.ie>

Sent: Tuesday, February 04, 2025 12:12

To: Brendan Marry <brendan.marry@outlook.com>

Subject: Re: COM019620 Complaint regarding odour from pig farm, Co. Louth

Hi Brendan,

I hope you are well and had a lovely bank holiday. In relation to the meeting please find the main points that were discussed on Thursday 27th of January 2024 and actions to be taken by Louth CC:

The following items were discussed:

- Nature of the complaint.
- Actions taken by LCC in response to complaint.
- Latest update: LCC visited the premises last week and confirmed there were no pigs on site at the time of the visit.
- Sections 24 & 26 of the Air Pollution Act 1987, as amended.
- EPA guidance¹ and training on odour impact assessments.

Actions:

1. LCC to carry out 10 odour assessments in accordance with the principles of EPA Air Guidance Note AG51 to establish if the premises is causing odour nuisance.
2. EPA to inform LCC of dates of upcoming training on odour impact assessments.

It was clarified that odour assessments will be carried out when animals are present at the site. In relation to keep an odour log please refer to Annex B: Odour Complainant Log Sheet in page 17 of the Air Guidance Note 5 (AG5): [AG5-2021.pdf](#). Please make sure you keep a log of odours. The AG5 document refers to EPA licensed sites, however as there are no guidelines for sub-licensed sites, this is the only document that provides guidelines to carry out odour assessments.

It is uncertain when the odour assessments will start as Louth County Council has to train staff to carry out assessments under AG5 guidance (EPA air enforcement team provides training) or otherwise engage with a private contractor (trained on AG5) to carry out the assessments. I will keep you updated on this and remember you can request this information directly with Louth County Council as it is the enforcement authority in this matter.

I just wanted to confirm with you if there are pigs on site at the moment? Let me know if you have any other questions.

Kind Regards,
Isabel

From: Brendan Marry <brendan.marry@outlook.com>

Sent: Tuesday, February 4, 2025 11:41 AM

To: Isabel Valera <I.Valera@epa.ie>

Subject: Fw: COM019620 Complaint regarding odour from pig farm, Co. Louth

Morning Isabel,

Hope you enjoyed the bank holiday weekend.

Did the meeting with LCC go ahead on Thursday the 30th of January? If so, could you kindly update us on how the meeting went, please?

Kind regards,

Brendan



Comhairle Contae Lú
Louth County Council

Brendan Marry
Rathiddy Road
Knockbridge
Co. Louth
A91 H57K

By email only to: brendanmarry@hotmail.com

12th September 2025

Re: Ref. S5 2025/64

Application for Declaration of "Exempted Development" Part 1, Section 5 Planning & Development Act, 2000 (as amended) as to whether the reinstatement of the use of an existing agricultural building for the housing of pigs at Rathiddy Road, Knockbridge, Co. Louth, A91 P8RC is development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 (as amended)

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 21st August 2025 in relation to the above. Having assessed all information and enclosures received with the application, the Planning Authority wishes to advise as follows: -

WHEREAS a question as to whether the reinstatement of the use of an existing agricultural building for the housing of pigs is development and is or is not exempted development at Rathiddy Road, Knockbridge, Co. Louth, A91 P8RC.

AND WHEREAS the said question was referred to Louth County Council by Brendan Marry of Rathiddy Road, Knockbridge. Co. Louth, A91 H57K

AND WHEREAS Louth County Council in considering this application, had regard reference particularly to:

- (a) The definition of "development" in Section 2 of the Planning & Development Act 2024 (as amended);
- (b) Articles 6, 9 and 10 of the Planning & Development Regulations 2001, (as amended);
- (c) The plans and particulars submitted to the Planning Authority and;
- (d) The planning history pertaining to the site.

Comhairle Contae Lú
Halla an Bhaile
Sráid Crowe
Dún Dealgan
Contae Lú
A91 W20C

Louth County Council
Town Hall
Crowe Street
Dundalk
County Louth
A91 W20C

T + 353 42 9335457
E info@louthcoco.ie
W www.louthcoco.ie

Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome
Féach foláirimh faoi Lú ón gComhairle ag www.mapalarter.ie/Louth
View Council alerts for Louth at www.mapalarter.ie/Louth

AND WHEREAS Louth County Council has concluded that on the basis of the information submitted that:

- (i) The use of the shed has not been abandoned.
- (ii) The use of the shed for the storage of pigs is not a material change of use and is not considered to constitute development under Section 2, Planning and Development Act 2024.

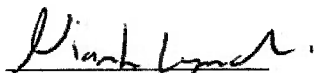
NOW THEREFORE Louth County Council in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the reinstatement of the use of an existing agricultural building for the housing of pigs is **not development**.

In Summary

The reinstatement of the use of an existing agricultural building for the housing of pigs at Rathiddy Road, Knockbridge, Co. Louth, A91 P8RC is not development as detailed on the plans and particulars submitted on 21st August 2025.

This decision may be referred by you to An Coimisiún Pleanála for review within 4 weeks of the date of this letter subject to the payment of the appropriate fee.

Yours faithfully,



Niamh Lynch
Planning Section

cc: Mr. Seamus Kirk, Rathiddy Road, Knockbridge, Co. Louth, A91 P8RC

Louth County Council

Section 5 Declaration

Planning Ref: 2025/64

Applicant's Name: Brendan Marry

Type of Application: Section 5 Declaration

Question for Determination: Is the reactivation and use of a building:
a) treated in 1995 planning files (95271) as not housing livestock for planning exemptions
b) submitted in 2010 (10146) and 2017 (17548) planning files as an 'Old Piggery (Disused)'
c) not considered as an active piggery for granting my planning permission in 2019 for the housing of pigs and associated works, development and is it or is it not exempted development?

Site Location: Rathiddy Road, Knockbridge, Co Louth, A91P8RC

Due Date: 17/09/2025

Report Date: 08/09/2025

1.0 SITE LOCATION & DESCRIPTION:

The subject site is located on the western side of the L-31671. The subject building is part of an existing farm complex, split into two portions by the local road. Agricultural land adjoins the site to the north and southeast, and an associated residential dwelling lies north of the subject agricultural shed.

2.0 Planning History

17548	Conditional	Permission for development that consists of the following: 1. Extension to existing hay storage shed, 2. Covering of existing silage pit and change of use to new
-------	-------------	---

		calf shed, 3. Roof over existing slatted tank and 4. New surface water tank and all associated site works.
10146	Conditional	Permission for development consisting of 1) extension to existing dairy, 2) extend existing silage pit & construct new walls to same, 3) extension to 2 no. existing cubicle sheds, 4) new overground slurry storage tanks, 5) extension to existing hay storage shed, 6) covering part of existing slurry tank & all associated site works
95271	Conditional	Silage pit

3.0 QUESTION FOR DETERMINATION:

The applicant has confirmed within Question 7 of the application form that the question for determination relates to the following;

'Is the reactivation and use of a building:

- a) Treated in 1995 planning files (95271) as not housing livestock for planning exemptions*
- b) submitted in 2010 (10146) and 2017 (17548) planning files as an 'old piggery disused)'*
- c) not considered as an active piggery for granting my planning permission in 2019 for the housing of pigs and associated works development and is it or is it not development?'*

The Planning Authority is considering this question as:

Whether the reactivation of the use of an existing agricultural building for the housing of pigs is development and is or is not exempted development.

The applicant has submitted an application form, a site location map and site plan, planning history and a cover letter.

4.0 EIA Screening and Determination

Council Directive 85/337/EEC (as amended) on the assessment of the effects of certain public and private projects on the environment ('the EIA Directive') is designed to ensure that projects likely to have significant effects on the environment are subject to a comprehensive assessment of their environmental effects prior to development consent being given. The latest amendments to the EIA Directive are provided under Directive 2014/52/EU and Circular letter PL 1/2017.

Based on information provided and having considered the minor nature, size and location of the development, there is no real likelihood of significant effects on the environment and as such as EIAR is not required.

5.0 Appropriate Assessment

No screening report has been provided with this application. The site lies c.5.8km of the Dundalk Bay SPA and Dundalk Bay SAC. No hydrological links with any European sites have been identified on EPA maps. Therefore, having regard to nature and scale of the proposal, it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site (Special Area of Conservation or Special Protected Area) and as such an Appropriate Assessment (Stage 2 AA) is not required.

6.0 LEGASLATIVE CONTEXT:

Article 6 of the Planning & Development Regulations 2001 (as amended) states the following:

Article 6. (1) Subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Schedule 2, Part 3 – Exempted Development Class 7 of the Planning and Development Regulations 2001 (as amended) states the following in relation to agricultural structures: Works consisting of the provision of a roofed structure for the housing of pigs, mink or poultry, having a gross floor space not exceeding 75sq.m (whether or not by extension of an existing structure), and any ancillary provision for effluent storage..

Column 2 Conditions and Limitations:

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

Restrictions on Exemption: Article 9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act-

(a) if the carrying out of such development would-

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

Section 2 of the Planning and Development Act 2024 provides the following interpretations:

“Works” include and act or operation –

- (a) of construction, excavation, demolition, extension, alteration, repair or renewal (including in relation to a protected structure, a proposed protected structure or a structure situated in an architectural conservation area), on, in, over or under land or a maritime site.
- (b) consisting of the application of plaster, paint, wallpaper, tiles or other material to the surface of a protected structure or proposed protected structure or the removal of plaster, paint, wallpaper, tiles or other material from such surface, and
- (c) consisting of the application of plaster, paint, wallpaper, tiles or other material to the exterior of a structure situated in an architectural conservation area or the removal of plaster, paint, wallpaper, tiles or other material from such exterior.

"Development" means –

- (a) the carrying out of works –
 - (i) on, in, over or under land, or
 - (ii) the sea, seabed or any structure, in the maritime area,
 - or
 - (b) the making of a material change in the use of—
 - (i) land or any structure on land, or
 - (ii) the sea, seabed or any structure, in the maritime area,
- and includes the reclamation of land in the nearshore area.

"Structure" means

- (a) a building, edifice, construction, excavation, or other thing constructed or made on, in or under any land, or a maritime site, or any part thereof,
- (b) the land or maritime site on, in or under which such building, edifice, construction, excavation, other thing or part is situated.

Section 5 of the Planning and Development Act 2000 (as amended) states that:

(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

(2) (a) Subject to *paragraph (b)*, a planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request under *subsection (1)*, and, where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.

(b) A planning authority may require any person who made a request under *subsection (1)* to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.

(c) A planning authority may also request persons in addition to those referred to in *paragraph (b)* to submit information in order to enable the authority to issue the declaration on the question.

Section 32 of the Planning and Development Act 2000 (as amended) states that:

Section 32 PDA 2000 sets out a general obligation to obtain planning permission in respect of any development of land, not being exempted development, and in the case

of development, which is unauthorised, for the retention of that unauthorised development.

Relevant Case Law

Dublin County Council v. Tallaght Block Co. Ltd.

This case determined that a use of land can be abandoned and that a change of use will occur when an abandoned use is recommenced. Hederman J in the Supreme Court stated: "Where a previous use of land has been not merely suspended for a temporary period and determined period, but has ceased for a considerable time, with no evidenced intention of resuming it at any particular time, the tribunal of fact was entitled to find that the previous use had been abandoned, so that the resumption constituted a material change of use."

An Bord Pleanála Decisions

ABP-311139-21 – the question for determination was whether the carrying out of repairs to an existing unoccupied piggery building, the re-opening of a pig farm and the works to the building were development and if so if the development was exempted development. In assessing the question of abandonment, ABP noted that on the basis of evidence submitted, the use of the lands for its established agricultural purposes remained, even though the use of the shed for the storage of pigs ceased for a period. It was held that no material change of use or development had occurred.

ABP-311365-21 – the question for determination was whether the current use of an agricultural shed for housing of pigs is or is not development and if so if the development was exempted development. In this case the proposed use was for the storage of pigs instead of cows, as approved. An overarching agricultural use was found, and therefore no material change of use was considered to have occurred, and as such no development had occurred.

ABP-317633-23 - the question for determination was whether the re-activation of the use of the existing entrance to a former residential dwelling is or is not development is or is not exempted development. In their consideration of the abandonment of use, ABP stated that the test of abandonment referred to 'Environmental and Planning Law in Ireland' was relevant for this assessment. This test relates to an assessment of:

- The intention of the owner and/or occupier to abandon or not abandon,
- The period during which the use was discontinued, the longer the period the more likely the use is to be abandoned.
- Whether or not there have been any intervening issues,
- The physical condition of the land or structure.

In this instance, in light of the above test, ABP were satisfied on foot of objective evidence, that an abandonment of use had occurred and therefore it was development that was not exempt.

7.0 ASSESSMENT

Introduction

It should be stated at the outset that the purpose of this referral is not to determine the acceptability or otherwise of the use of the shed in question as a piggery in respect to the proper planning and sustainability of the area, but rather whether or not the matter in question constitutes development, and if so whether it falls within the scope of exempted development.

The shed subject of this referral is in existence. As highlighted in the cover letter submitted with this referral, the shed was indicated to be 'disused piggery' on the site layout plan submitted under planning reference 95/271 which pertained to an extension to another shed within the farm complex. No planning history is on file for the construction of the subject shed. No chronology has been set out by the referrer to indicate when subject shed was constructed, beyond the reference to the shed within the site layout plans submitted under planning references 95/271, 10/146 and 17/548. No information has been submitted to confirm whether the building was constructed in accordance with exemption provisions at the time. The size and scale of the existing structure have not been provided in any detailed drawings. Therefore, it cannot be categorically concluded whether the works undertaken to construct the shed were in compliance with the then exempt development regulations, nor can it be concluded that the construction of the existing shed was not in compliance with exempt development regulations, requiring planning permission.

Therefore, the focus of this referral response will relate to the question of abandonment and question of whether a material change of use has occurred in reinstating the use as a piggery. Which if proven constitute as development in accordance with Section 2(b) of the Planning and Development Act 2024.

From the documentation submitted it appears that the shed has been consistently referred to as a 'disused piggery' in planning references 95/271, 10/146 and 17/548. It would appear then that the shed *may not* have been in use as a piggery for a period of time, during the periods of submission of the above-named planning references. However, there is no information on record or provided within this application which shows that the shed was not used as piggery intermittently between these times. It is not considered that reference to a 'disused piggery' in a planning application necessarily means it the use has been abandoned by the owner, only that it was not in use as a piggery at that particular time.

Regard has been given to various case law verdicts and An Bord Pleanála decisions which are in agreement in terms of abandonment of use and the test for determining abandonment. Having regard to the limited information submitted as part of this application, the lack of planning history associated with the shed and a review of old

satellite photos, it is clear that this structure has not been dismantled, nor been left in disrepair, with the access and curtilage maintained to a reasonable standard. Therefore, there is no objective evidence of the owner's intention to abandon the use. Therefore no material change of use is deemed to have occurred and as such no development has taken place.

8.0 RECOMMENDATION:

Having regard to the foregoing, and to the provisions of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended), it is considered that the use of the shed has not been abandoned, and therefore no material change of use has occurred and as such no development under Section 2 of the Planning and Development Act 2024 has occurred.

WHEREAS a question as to whether the reinstatement of the use of an existing agricultural building for the housing of pigs is development and is or is not exempted development at Rathiddy Road, Knockbridge, Co Louth, A91 P8RC is exempted development.

AND WHEREAS the said question was referred to Louth County Council by Brendan Marry of Rathiddy Road, Knockbridge. Co.Louth A91 H57K

AND WHEREAS Louth County Council in considering this application, had regard reference particularly to:

- (a) The definition of "*development*" in Section 2 of the Planning & Development Act 2024 (as amended);
- (b) Articles 6, 9 and 10 of the Planning & Development Regulations 2001, (as amended);
- (c) The plans and particulars submitted to the Planning Authority and;
- (d) The planning history pertaining to the site.

AND WHEREAS Louth County Council has concluded that on the basis of the information submitted that:

- (i) The use of the shed has not been abandoned.
- (ii) The use of the shed for the storage of pigs is not a material change of use and is not considered to constitute development under Section 2, Planning and Development Act 2024.

NOW THEREFORE Louth 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 reinstatement of the use of an existing agricultural building for the housing of pigs is **not development**.



Niamh Boyle

Assistant Planner

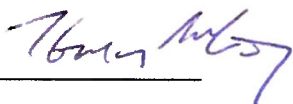
Date: 09/09/2025



Turlough King

A/ Senior Planner

Date: 10/09/2025



Thomas McEvoy

Director of Service

Date: 12th September 2025