

**MANAHAN PLANNERS**  
TOWN PLANNING CONSULTANTS

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Tel: 01-6799094. Vat No: 285039E. Tony Manahan B.A.(Hons), M.Phil (Edin), M.I.P.I.

5<sup>th</sup> September 2018.

The Secretary,  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1.

|                         |                                 |
|-------------------------|---------------------------------|
| <b>AN BORD PLEANÁLA</b> | <b>AN BORD PLEANÁLA</b>         |
| Received: <u>7/9/18</u> | TIME <u>1306</u> BY <u>Hand</u> |
| Fee: <u>€220 cheque</u> | <b>07 SEP 2018</b>              |
| Receipt No: _____       | LTR DATE _____ FROM _____       |
|                         | PL _____                        |

**Re: Refer Section 5 Decision of Meath County Council at Cushinstown, County Meath for Mr. Mark Watkins.**

**L.A. Ref: AAS51823** *CONSTRUCTION OF 200m<sup>2</sup> HORSE STABLES EXEMPT?*

Dear Sir/Madam,

We have been instructed by Mr. Mark Watkins of Cushinstown, Co. Meath, to refer the Decision by Meath County Council in relation to the above matter to An Bord Pleanála for determination. We enclose a copy of the decision Letter from Meath County Council dated 24<sup>th</sup> August 2018 together with the payment of €220 as the appropriate fee. This reference is in respect of a building of stables at his lands at Cushinstown Co. Meath.

We submitted an application to Meath County Council on 31<sup>st</sup> July 2018 setting out the arguments in a Section 5 application that planning permission was not required for the works. Our submission included the following considerations.

**Previous Section 5 Application**

Our client lodged an application for a somewhat different development previously (Reg. Ref. AAS51814).

In that case, the Planning Authority made a decision on 5<sup>th</sup> of June 2018 that the proposed development required permission. In the Planning Report, the Area Planner identified how the proposal generally complied with the Exempted Development Regulations but fell within the scope of the limitations on Exempted Development for the following reason:

*The proposed development of a horse stables at this location would lead to over-intensification of traffic movements on the N2 National Primary Road which would endanger public safety by creation of a traffic hazard and would interfere with the visual amenity and character of the area.*

In response to their concerns a new Section 5 application was submitted, revising the siting and design of the stable block and addressing the two limiting issues raised by the Planning Authority in the previous application. The following was our response to reasons in the June decision.

### **Traffic Hazard**

While it is agreed there is a need to avoid intensification of traffic movements on a national road for safety reasons, this limitation reason is considered not to apply in the circumstances of this site.

We wish to point out that this land has been used for holding livestock over the past hundred years. The irregular shape of the land and layout of the fields means it is not suitable for growing crops. This land holds a Heald License for as long as the system has been in place. Therefore, the cattle handling facilities located at the main gate along the N2 have been in place long before our client purchased the land. In this regard, access to and from these lands has been taken from the N2 for in excess of 50 years without any issues.

In addition, there are residential properties along the N2 that take access off this road namely, the house closest to the existing entrance and that is not considered a traffic hazard. Moreover, the existing entrance is opposite a paved entrance to a field/farm. Therefore, the applicant's entrance should not be considered a traffic hazard if the same traffic considerations exist across and along the road.

Further to this, the frequency of visits per week is likely to be a minimum of three a day and more in winter. The reason for this are twofold. Firstly, this is a non-residential farm whereby random visitation/passive surveillance is not possible. Secondly, the duty to comply with Regulations to ensure that the health and welfare of the animals need to be complied with. By constructing this proposal, the applicant hopes to have less visits as the animals should be in warm dry conditions and not suffer from wet hooves and cold, especially in winter, otherwise the frequency of visits will remain the same.

The Department of Agriculture has advised the applicant that he needs to provide shelter for his animals should they get sick and need a stable to recover. This equally applies during cold/wet periods which are expected to become worse as a result of climate change. The availability of grants to make provisions for the welfare of livestock exemplifies the negative impact expected from future climatic conditions.

In summary we argued there would be no over intensification of traffic movements as a consequence of this building, in fact the reverse may be true.

### **Visual Alteration to the Landscape**

The second aspect of the earlier Decision was concerned with the visual impact the stables would have on the character of the area. The topography of the area consists of land which slopes from the road down to an adjoining stream. The stables will be located down slope from the road and with the

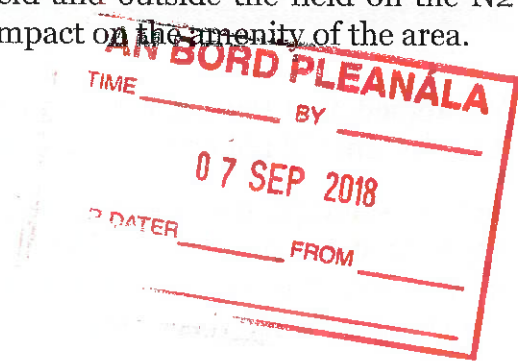
existing hedgerow should not be visible from the public road. It is submitted that locating the stables on a slope in the field will help reduce its overall appearance, which in turn will integrate the needed structure into the landscape character of the area.

The fact that a stables is considered to be exempt, if set far enough away from the public road, shows that a stable block is considered to be an accepted part of the rural landscape.

The image below illustrates the varying elevation of the land with the red arrow indicating the location of the stables. The image shows the elevation of the slope within the field. As is evident, the slope is significant enough to ensure that the visual impact of the stables will be greatly reduced from the perspective of the dwellings opposite the stables.



Similarly, the image below shows that there is also a drop in gradient along the N2 road where elevation is reduced by c.4 metres. Therefore, the combination of loss of elevation in the field and outside the field on the N2 would greatly reduce the degree of visual impact on the amenity of the area.





Further to this, the materials used to construct the stables are in keeping with the rural character of the area. The image below shows a view of the house opposite the proposed development highlighting the vegetation present in the hedgerow bounding the site. It is submitted that the proposal will not “alter the visual character” of the area. A stable building, in itself, is not an incongruous element in a rural area. The fact that it can be exempt if set back sufficiently from the public road, confirms that aspect.



We argued that the suggested constraining considerations, on traffic or visual amenity, should not apply in the circumstances of the site.

Notwithstanding the arguments above, our client proposed in this second application, to move the stables further away from the road, down the slope in the field. This will ensure that the proposal will clearly not interfere with the visual amenity of the area to a degree that it would “alter the character of the landscape” in this location as a result of building this stable.

Based on the amended location for the Stable building, we re-applied for a Section 5 Exempted Development Certificate to the Planning Authority. (File Number AAS51823). However the Planning Authority once again determined that the proposed Stable block was not exempt and required permission.

### **Assessment of the Current Proposal**

The following section sets out how the amended proposal, can be assessed against the 7 conditions of Schedule 2, Part 3, Class 6:

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

- The applicant has stated on the application form that the application relates to the construction of a horse stables.

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 300 square metres gross floor space in aggregate.*

- There is an agricultural polytunnel measuring 93 sq.m located approx.135metres south of the proposed location of the horse stables within the red line boundary of the site. The combined total floor area of the proposed horse stables and existing agricultural polytunnel equals 293 sq.m.

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.*

- The applicant will provide effluent storage facilities to serve the structure.

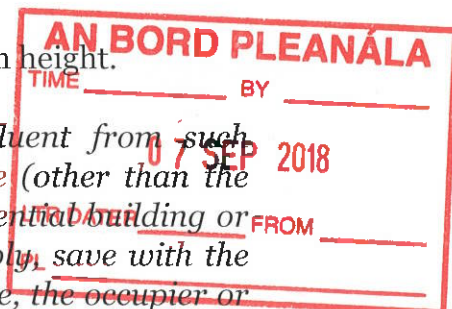
4. *No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road.*

- The proposed structure is located more than 10 metres from the public road.

5. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*

- The proposed structure measures 5.59 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.*



- The closest dwelling is located 103.99 metres north-east of the proposed structure.

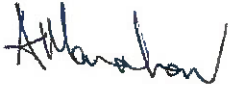
7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*

- The applicant is proposing to use a selected sheet or tile roof and a timber cladding finish on walls.

In addition we believe that the proposal does not constitute as traffic hazard nor would be seriously injurious to the visual amenities of the area for reasons set out earlier in this Reference. According we ask that An Bord Pleanala determine that the building the subject of this reference is Exempted Development.

We look forward to a Decision in due course.

Yours faithfully



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**Tony Manahan**

**Manahan Planners**

Meath County Council



Planning Report

|                                 |  |
|---------------------------------|--|
| <b>To:</b>                      | Wendy Bagnall, Senior Executive Planner  |
| <b>From:</b>                    | Aoife Kennedy, Assistant Planner         |
| <b>Date:</b>                    | 23 <sup>rd</sup> August 2018             |
| <b>File Number:</b>             | AAS51823                                 |
| <b>Applicant:</b>               | Mark Watkins                             |
| <b>Development Address:</b>     | Cushinstown, Co. Meath                   |
| <b>Application Type:</b>        | Section 5 Exemption Certificate          |
| <b>Development Description:</b> | Construction of a 200 sqm horse stables. |
| <b>Decision due date:</b>       | 27 <sup>th</sup> August 2018             |

**1.0 Introduction:**

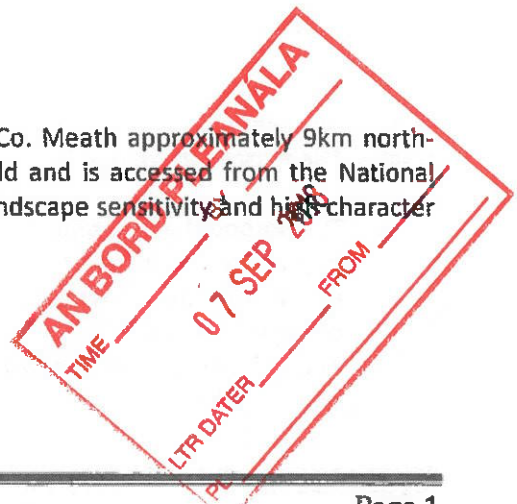
The applicant is seeking a declaration as to whether the following is or is not exempted development, in accordance with Section 5 of the Planning and Development Act 2000-2017:

- The construction of a 200 sq. metre horse stables.

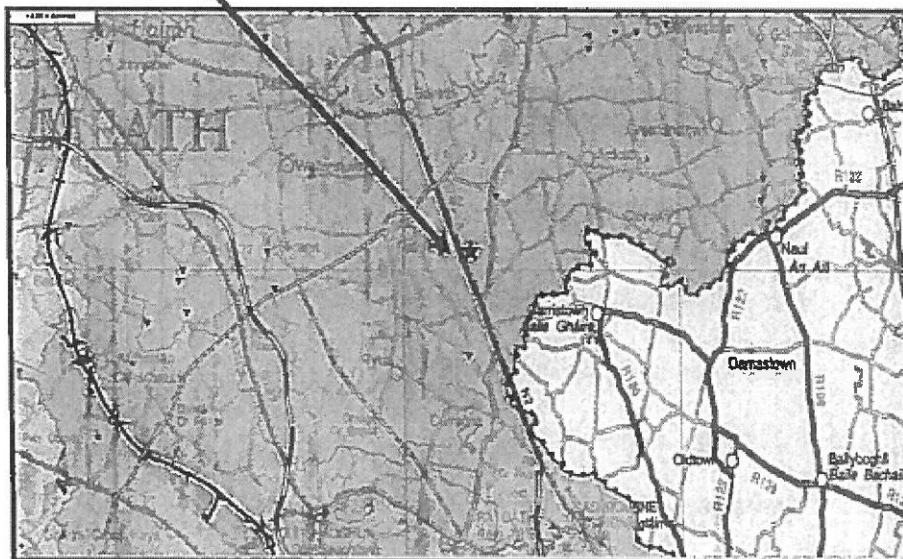
The applicant is the land owner in this case.

**2.0 Site location:**

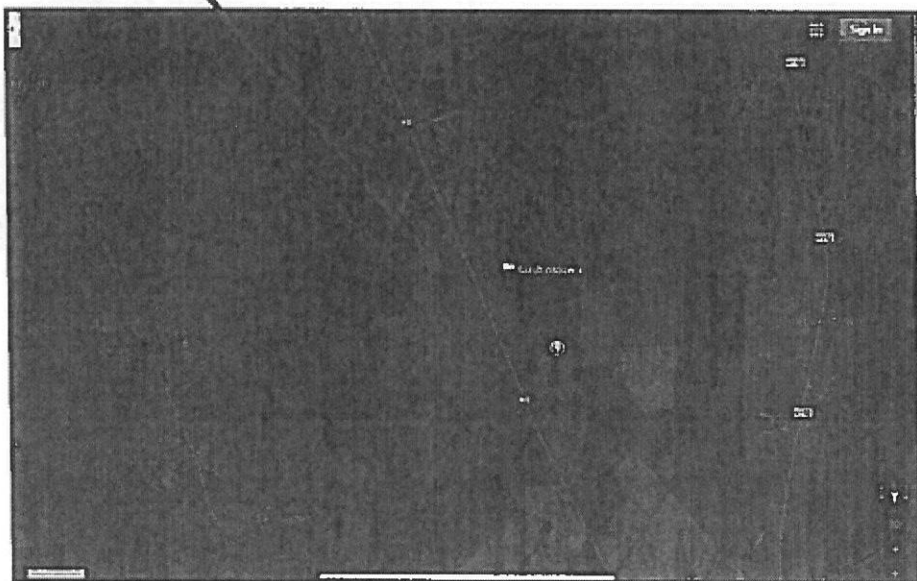
The subject site is located in the town land of Cushinstown, Co. Meath approximately 9km north-west of Ashbourne. The site in question is an agricultural field and is accessed from the National Primary Road N2. The site is located in an area of moderate landscape sensitivity and high character value in the Central Lowlands.



Site location:



Site location:



### 3.0 Planning History:

AAS51814: Exemption Certificate refused to Mark Watkins for the construction of a 200 sqm horse stables. The reasons for refusal issued as follows:

1. The proposed development taken in conjunction with the existing exempted agricultural use on the site would lead to an over intensification of traffic movements onto a non-recessed access from the N2 National Primary Road which would endanger public safety by creation of a traffic hazard.
2. The location of the proposed development is out of character with the area and it is considered that same would interfere with the character of the landscape and injure the visual amenity of the area.



AAS51746: Exemption Certificate granted to Mark Watkins for an agricultural poly-tunnel on agricultural lands.

#### 4.0 Relevant Legislation:

The Planning Authority has regard to:

- (a) **Section 3 (1)** of the Planning and Development Act 2000-2017 indicates that: 'development' means, except where the context otherwise requires, the carrying out of any works on, in over or under land or the making of any material change of use of any structures or other land.
- (b) **Section 4 (1)** of the Planning and Development Act 2000-2017 states that regulations may be provided for any class of development which may be considered as exempted development.
- (c) **Section 4 (1) (h)** of the Planning and Development Act 2000-2017 states that exempted development is development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;
- (d) **Article 9 (1)** of the Planning and Development Regulations 2001-2017 outlines the circumstances in which development to which article 6 relates shall not be exempted development.
- (e) **Schedule 2, Part 3, Class 6** of the Planning and Development Regulations 2001-2017: Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

#### Schedule 2, Part 3, Class 6: 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 structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard, to its size, use and location shall be constructed in line with the Department of Agriculture, Food and Rural Development and Department of 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 church or building used for public assembly, save with the consent in writing of the owner, 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.

#### 5.0 Assessment

The applicant is seeking a declaration as to whether the following is or is not exempted development, in accordance with Section 5 of the Planning and Development Act 2000-2018. Section 5 (1) of the Planning and Development Act 2000-2018 states that 'any person may' request a declaration on that question. In this instance the applicant is the owner. An application is being made by the owner of the property seeking a declaration as to whether the construction of a 200sq. metre horse stables at Cushinstown, Co. Meath is or is not exempted development.

The current applicant applied for an exemption certificate for a 200sqm stables on the subject site under reference AAS51814 and the Planning Authority deemed it to not constitute exempt development. The location of the shed from that submitted under AAS51814 has been altered slightly. Under this application it is 32 metres from the northern boundary. In the previous application AAS51814 it was 44 metres from the northern boundary. The stables are the same height at 5.5metres and the same floor area at 200sqm. The same access arrangements are proposed off the N2.

In order to address the issues of the Planning Authority under previous application AAS51814 the applicant has submitted a report. This report contends that the land has been used for holding livestock over the past hundred years and holds a herd licence. It is indicated that the cattle handling facilities located at the main gate along the N2 have been in place long before the applicant purchased the land and thus access to and from these lands has been taken from the N2 for in excess of 50 years without any issues. The applicant references existing entrance both domestic and agricultural off the N2 that don't represent a traffic hazard. The applicant indicates that the reason for the proposed development is two-fold. Firstly it is a non-residential farm whereby random visitation/passive surveillance is not possible. Secondly, the duty to comply with Regulations to ensure that the health and welfare of the animals need to be complied with. The applicant hopes that the proposed shed will result in fewer visits as the animals should be in warm dry conditions and not suffer from wet hooves and cold, especially in winter. In relation to the visual alteration of the landscape, the applicant submits details in relation to the topography of the landholding and elevations and contends that the proposal will not interfere with the visual amenity of the area to a degree that it would 'alter the character of the landscape' at this location.

This application in regards to Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001-2017 is assessed as follows;

1. *No such structure shall be used for any purpose other than the purpose of agriculture.*
  - The applicant has stated on the application form that the application relates to the construction of a horse stables.
2. *The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*
  - There is an agricultural poly-tunnel measuring 93 sq. metres located approximately 52 metres south of the proposed location of the horse stables

within the red line boundary of the site. However, it is noted that a poly-tunnel falls under a different Class (Class 9, Part 3, Schedule 2).

3. *Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with the Department of Agriculture, Food and Rural Development and Department of Environment and local government requirements, and shall have regard to the need to avoid water pollution.*
  - The applicant has not included information regarding effluent storage facilities to serve the structure.
4. *No such structure shall be situated, and no effluent from such structure shall be stored within 10 metres of any public road.*
  - The proposed structure is located more than 10 metres from the public road.
5. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*
  - The proposed structure measures 5.59 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 church or building used for public assembly, save with the consent in writing of the owner, as may be appropriate, the occupier or person in charge thereof.*
  - The closest dwelling is located 109 metres east of the proposed structure.
7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*
  - The applicant is proposing to use timber cladding and sheet/tile roof. The applicant has not indicated the colour of the sheet metal to be used.

On the basis of the above, the development constitutes development and falls within the criteria set down in Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001-2017. However, the reasons for refusal issued under previous application AAS51814 are still valid. Although the applicant has submitted more information under this application and the location of the shed has been slightly altered on site (by 12 metres approx.), the proposed development is essentially the same as submitted under AAS51814. Access is still proposed off the N2 National Primary Road and the proposal is for a 200sqm agricultural shed. It is recommended that this development is not exempt having regard to section 9 (1) (iii) and (vi) of the Planning and Development Regulations 2001-2017 on the basis that the proposed development would intensify traffic movements onto a non-recessed access from the N2 National Primary Road which would endanger public safety by creation of a traffic hazard and would be out of character with the area which would interfere with the character of the landscape.

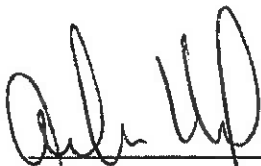
#### 6.0 Conclusion

The proposed development of a horse stables at this location would lead to over-intensification of traffic movements on the N2 National Primary Road which would endanger public safety by creation of a traffic hazard and would interfere with the visual amenity and character of the area.

**7.0 Recommendation**

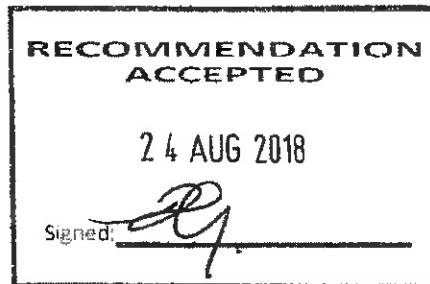
It is recommended that an Exemption Certificate be refused for the following reasons:

1. The proposed development taken in conjunction with the existing exempted agricultural use on the site would lead to an over intensification of traffic movements onto a non-recessed access from the N2 National Primary Road which would endanger public safety by creation of a traffic hazard.
2. The location of the proposed development is out of character with the area and it is considered that same would interfere with the character of the landscape and injure the visual amenity of the area.

  
Aoife Kennedy  
Assistant Planner

Wendy Bagnall  
Senior Executive Planner

*approved, please refer to separate report attached.  
UBagnall  
23/8/18*



**To:** Pat Gallagher, Senior Planner  
**From:** Wendy Bagnall, Senior Executive Planner  
**Date:** 23<sup>rd</sup> August 2018  
**File Number:** AAS51823  
**Applicant:** Mark Watkins  
**Development Address:** Cushinstown, Co. Meath  
**Application Type:** Section 5 Exemption Certificate  
**Development Description:** Construction of a 200 sqm horse stables

I refer to the above application under Section 5 of the Planning and Development Act 2000 as amended which is seeking a declaration as to whether the following constitutes exempted development:

- The construction of a 200 sq. metre horse stables.

As is set out in the attached planning report, I concur that the proposed development falls with Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001-2017, Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

All applications seeking exempted development must be assessed against the limitations on exemption set out in Article 9 (1) of the Planning and Development Regulations 2001 as amended. Article 9 (1) is applicable to the current application as follows: *'development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of any such development would: (a) (iii) endanger public safety by reason of traffic hazard or obstruction of road users.'*

Access is proposed off the N2 National Primary route at a location where the maximum speed limit applies. A report from Joe McGarvey SEE Transportation states as follows:

*'The applicant proposes to use an existing access point on the N2 National Primary Road to access the development.*

*The proposed development is likely to generate additional traffic on a section of a strategic National Primary Route which already operates at or near capacity. The application should be refused as it contravenes the requirements of the Meath County Development Plan and could endanger public safety by the creation of a traffic hazard.*

*Recommendation*

*The application should be refused as it contravenes the requirements of the Meath County Development Plan (Section 10.16) and the Spatial Planning and National Road guidelines (Section 2.5) published by the DoECLG (Jan 2012). '*

Previously AAS51814, exemption Certificate refused to Mark Watkins for the construction of a 200 sq horse. AAS51746, Exemption Certificate granted to Mark Watkins for an agricultural poly-tunnel on agricultural lands. The issue of the entrance to the lands was not raised as an issue. Furthermore I note that the planning report which accompanies the current application refers to historic farm access.

I concur with the comments set out in Mr Mc Garvey's report, the proposed development will result in additional traffic movements at this location, is therefore considered to constitute a traffic hazard and would establish a very undesirable future precedent. The proposed development is therefore considered contrary Article 9 (1) (a) (iii) of the Planning and Development Regulations and constitutes development which is not exempted development.

#### **Recommendation**

Whereas a question has arisen as to whether the erection of a 200sqm horse stable is or is not development or is or is not exempted development:

And whereas the Planning Authority in considering this referral, had regard particularly to-

- (a) Section 3 (1) of the Planning and Development Act 2000 as amended;
- (b) Section 4 (1) of the Planning and Development Act 2000 as amended;
- (c) Article 9 (1) of the Planning and Development Act 2000 as amended;
- (d) Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001-2017;
- (e) The planning history of the site;
- (f) Pattern of development in the area.
- (g) Report of Transportation Section of Meath County Council.

And whereas the Planning Authority concluded that:

The proposed development of a 200sqm horse stables is development within the meaning given to it under Section 3 (1) of the Planning and Development Act 2000 as amended and having regard to Article 9 (1) of the Planning and Development Act 2000 as amended is not exempted development.

Now therefore the Planning Authority hereby decides that the erection of a 200 sqm horse stables is development and is not exempted development.

Meath County Council



Planning Report

|                                 |  |
|---------------------------------|--|
| <b>To:</b>                      | Wendy Bagnall, Senior Executive Planner  |
| <b>From:</b>                    | Aoife Kennedy, Assistant Planner         |
| <b>Date:</b>                    | 23 <sup>rd</sup> August 2018             |
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| <b>Development Address:</b>     | Cushinstown, Co. Meath                   |
| <b>Application Type:</b>        | Section 5 Exemption Certificate          |
| <b>Development Description:</b> | Construction of a 200 sqm horse stables. |
| <b>Decision due date:</b>       | 27 <sup>th</sup> August 2018             |

1.0 Introduction:

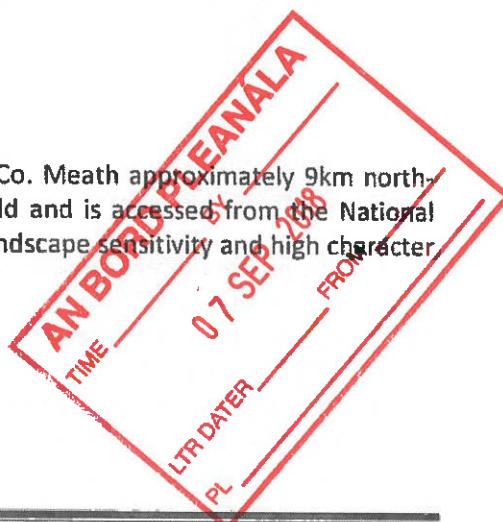
The applicant is seeking a declaration as to whether the following is or is not exempted development, in accordance with Section 5 of the Planning and Development Act 2000-2017:

- The construction of a 200 sq. metre horse stables.

The applicant is the land owner in this case.

2.0 Site location:

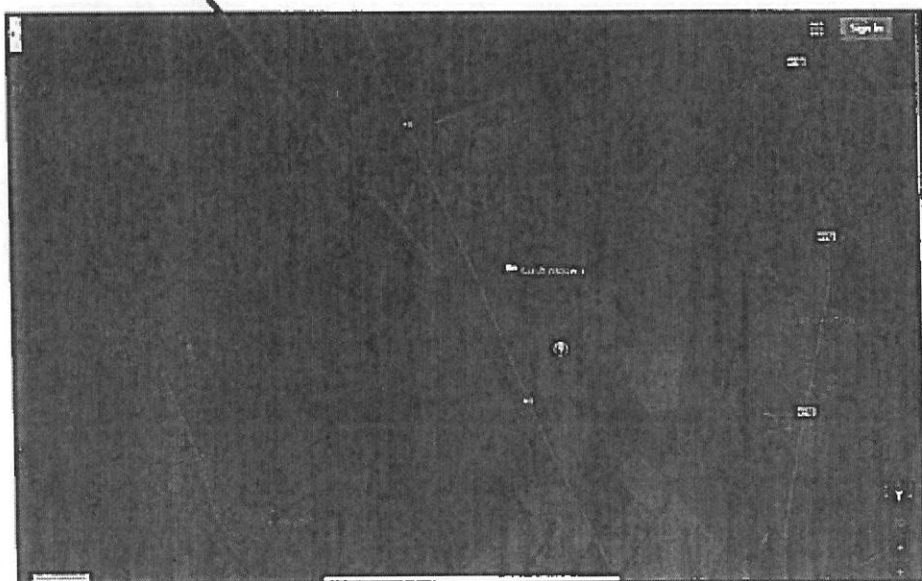
The subject site is located in the town land of Cushinstown, Co. Meath approximately 9km north-west of Ashbourne. The site in question is an agricultural field and is accessed from the National Primary Road N2. The site is located in an area of moderate landscape sensitivity and high character value in the Central Lowlands.



Site location:



Site location:



### 3.0 Planning History:

AAS51814: Exemption Certificate refused to Mark Watkins for the construction of a 200 sqm horse stables. The reasons for refusal issued as follows:

1. The proposed development taken in conjunction with the existing exempted agricultural use on the site would lead to an over intensification of traffic movements onto a non-recessed access from the N2 National Primary Road which would endanger public safety by creation of a traffic hazard.
2. The location of the proposed development is out of character with the area and it is considered that same would interfere with the character of the landscape and injure the visual amenity of the area.



AAS51746: Exemption Certificate granted to Mark Watkins for an agricultural poly-tunnel on agricultural lands.

#### 4.0 Relevant Legislation:

The Planning Authority has regard to:

- (a) **Section 3 (1)** of the Planning and Development Act 2000-2017 indicates that: 'development' means, except where the context otherwise requires, the carrying out of any works on, in over or under land or the making of any material change of use of any structures or other land.
- (b) **Section 4 (1)** of the Planning and Development Act 2000-2017 states that regulations may be provided for any class of development which may be considered as exempted development.
- (c) **Section 4 (1) (h)** of the Planning and Development Act 2000-2017 states that exempted development is development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;
- (d) **Article 9 (1)** of the Planning and Development Regulations 2001-2017 outlines the circumstances in which development to which article 6 relates shall not be exempted development.
- (e) **Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001-2017:** Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

#### Schedule 2, Part 3, Class 6: 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 structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.
3. Effluent storage facilities adequate to serve the structure having regard, to its size, use and location shall be constructed in line with the Department of Agriculture, Food and Rural Development and Department of 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 church or building used for public assembly, save with the consent in writing of the owner, 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.

#### 5.0 Assessment

The applicant is seeking a declaration as to whether the following is or is not exempted development, in accordance with Section 5 of the Planning and Development Act 2000-2018. Section 5 (1) of the Planning and Development Act 2000-2018 states that 'any person may' request a declaration on that question. In this instance the applicant is the owner. An application is being made by the owner of the property seeking a declaration as to whether the construction of a 200sq. metre horse stables at Cushinstown, Co. Meath is or is not exempted development.

The current applicant applied for an exemption certificate for a 200sqm stables on the subject site under reference AAS51814 and the Planning Authority deemed it to not constitute exempt development. The location of the shed from that submitted under AAS51814 has been altered slightly. Under this application it is 32 metres from the northern boundary. In the previous application AAS51814 it was 44 metres from the northern boundary. The stables are the same height at 5.5metres and the same floor area at 200sqm. The same access arrangements are proposed off the N2.

In order to address the issues of the Planning Authority under previous application AAS51814 the applicant has submitted a report. This report contends that the land has been used for holding livestock over the past hundred years and holds a herd licence. It is indicated that the cattle handling facilities located at the main gate along the N2 have been in place long before the applicant purchased the land and thus access to and from these lands has been taken from the N2 for in excess of 50 years without any issues. The applicant references existing entrance both domestic and agricultural off the N2 that don't represent a traffic hazard. The applicant indicates that the reason for the proposed development is two-fold. Firstly it is a non-residential farm whereby random visitation/passive surveillance is not possible. Secondly, the duty to comply with Regulations to ensure that the health and welfare of the animals need to be complied with. The applicant hopes that the proposed shed will result in fewer visits as the animals should be in warm dry conditions and not suffer from wet hooves and cold, especially in winter. In relation to the visual alteration of the landscape, the applicant submits details in relation to the topography of the landholding and elevations and contends that the proposal will not interfere with the visual amenity of the area to a degree that it would 'alter the character of the landscape' at this location.

This application in regards to Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001-2017 is assessed as follows;

1. *No such structure shall be used for any purpose other than the purpose of agriculture.*
  - The applicant has stated on the application form that the application relates to the construction of a horse stables.
2. *The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 300 square metres gross floor space in aggregate.*
  - There is an agricultural poly-tunnel measuring 93 sq. metres located approximately 52 metres south of the proposed location of the horse stables

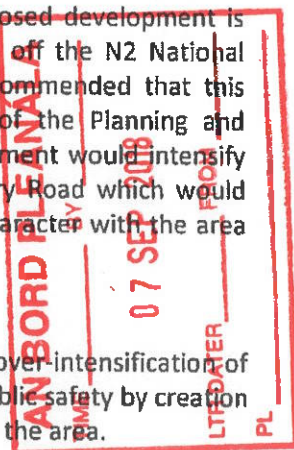
within the red line boundary of the site. However, it is noted that a poly-tunnel falls under a different Class (Class 9, Part 3, Schedule 2).

3. *Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with the Department of Agriculture, Food and Rural Development and Department of Environment and local government requirements, and shall have regard to the need to avoid water pollution.*
  - The applicant has not included information regarding effluent storage facilities to serve the structure.
4. *No such structure shall be situated, and no effluent from such structure shall be stored within 10 metres of any public road.*
  - The proposed structure is located more than 10 metres from the public road.
5. *No such structure within 100 metres of any public road shall exceed 8 metres in height.*
  - The proposed structure measures 5.59 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 church or building used for public assembly, save with the consent in writing of the owner, as may be appropriate, the occupier or person in charge thereof.*
  - The closest dwelling is located 109 metres east of the proposed structure.
7. *No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.*
  - The applicant is proposing to use timber cladding and sheet/tile roof. The applicant has not indicated the colour of the sheet metal to be used.

On the basis of the above, the development constitutes development and falls within the criteria set down in Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001-2017. However, the reasons for refusal issued under previous application AAS51814 are still valid. Although the applicant has submitted more information under this application and the location of the shed has been slightly altered on site (by 12 metres approx.), the proposed development is essentially the same as submitted under AAS51814. Access is still proposed off the N2 National Primary Road and the proposal is for a 200sqm agricultural shed. It is recommended that this development is not exempt having regard to section 9 (1) (iii) and (vi) of the Planning and Development Regulations 2001-2017 on the basis that the proposed development would intensify traffic movements onto a non-recessed access from the N2 National Primary Road which would endanger public safety by creation of a traffic hazard and would be out of character with the area which would interfere with the character of the landscape.

#### 6.0 Conclusion

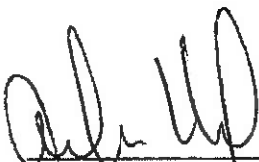
The proposed development of a horse stables at this location would lead to over-intensification of traffic movements on the N2 National Primary Road which would endanger public safety by creation of a traffic hazard and would interfere with the visual amenity and character of the area.



**7.0 Recommendation**

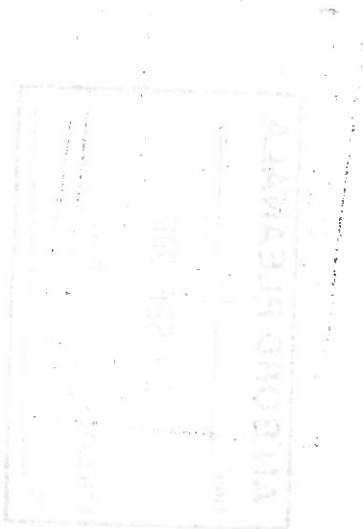
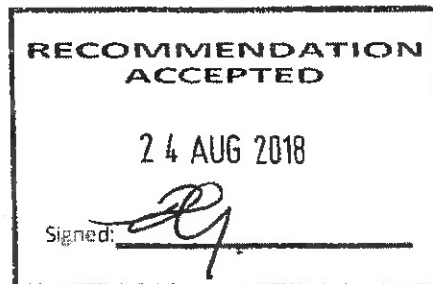
It is recommended that an Exemption Certificate be refused for the following reasons:

1. The proposed development taken in conjunction with the existing exempted agricultural use on the site would lead to an over intensification of traffic movements onto a non-recessed access from the N2 National Primary Road which would endanger public safety by creation of a traffic hazard.
2. The location of the proposed development is out of character with the area and it is considered that same would interfere with the character of the landscape and injure the visual amenity of the area.

  
Aoife Kennedy  
Assistant Planner

Wendy Bagnall  
Senior Executive Planner

*approved, please refer to separate reports attached.  
UBagnall  
23/8/18*



**To:** Pat Gallagher, Senior Planner  
**From:** Wendy Bagnall, Senior Executive Planner  
**Date:** 23<sup>rd</sup> August 2018  
**File Number:** AAS51823  
**Applicant:** Mark Watkins  
**Development Address:** Cushinstown, Co. Meath  
**Application Type:** Section 5 Exemption Certificate  
**Development Description:** Construction of a 200 sqm horse stables

I refer to the above application under Section 5 of the Planning and Development Act 2000 as amended which is seeking a declaration as to whether the following constitutes exempted development:

- The construction of a 200 sq. metre horse stables.

As is set out in the attached planning report, I concur that the proposed development falls with Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001-2017, Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage.

All applications seeking exempted development must be assessed against the limitations on exemption set out in Article 9 (1) of the Planning and Development Regulations 2001 as amended. Article 9 (1) is applicable to the current application as follows: 'development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of any such development would: (a) (iii) endanger public safety by reason of traffic hazard or obstruction of road users.'

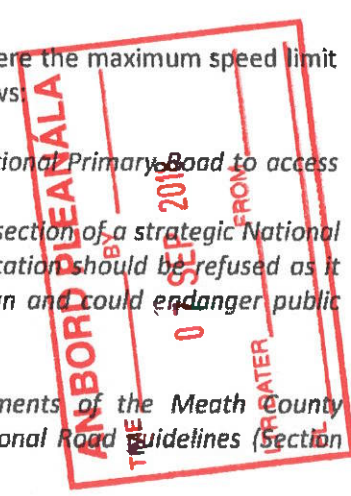
Access is proposed off the N2 National Primary route at a location where the maximum speed limit applies. A report from Joe McGarvey SEE Transportation states as follows:

*The applicant proposes to use an existing access point on the N2 National Primary Road to access the development.*

*The proposed development is likely to generate additional traffic on a section of a strategic National Primary Route which already operates at or near capacity. The application should be refused as it contravenes the requirements of the Meath County Development Plan and could endanger public safety by the creation of a traffic hazard.*

**Recommendation**

*The application should be refused as it contravenes the requirements of the Meath County Development Plan (Section 10.16) and the Spatial Planning and National Road Guidelines (Section 2.5) published by the DoECLG (Jan 2012). '*



Previously AAS51814, exemption Certificate refused to Mark Watkins for the construction of a 200 sq horse. AAS51746, Exemption Certificate granted to Mark Watkins for an agricultural poly-tunnel on agricultural lands. The issue of the entrance to the lands was not raised as an issue. Furthermore I note that the planning report which accompanies the current application refers to historic farm access.

I concur with the comments set out in Mr Mc Garvey's report, the proposed development will result in additional traffic movements at this location, is therefore considered to constitute a traffic hazard and would establish a very undesirable future precedent. The proposed development is therefore considered contrary Article 9 (1) (a) (iii) of the Planning and Development Regulations and constitutes development which is not exempted development.

#### **Recommendation**

Whereas a question has arisen as to whether the erection of a 200sqm horse stable is or is not development or is or is not exempted development:

And whereas the Planning Authority in considering this referral, had regard particularly to-

- (a) Section 3 (1) of the Planning and Development Act 2000 as amended;
- (b) Section 4 (1) of the Planning and Development Act 2000 as amended;
- (c) Article 9 (1) of the Planning and Development Act 2000 as amended;
- (d) Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001-2017;
- (e) The planning history of the site;
- (f) Pattern of development in the area.
- (g) Report of Transportation Section of Meath County Council.

And whereas the Planning Authority concluded that:

The proposed development of a 200sqm horse stables is development within the meaning given to it under Section 3 (1) of the Planning and Development Act 2000 as amended and having regard to Article 9 (1) of the Planning and Development Act 2000 as amended is **not exempted development**.

Now therefore the Planning Authority hereby decides that the erection of a 200 sqm horse stables is development and is not exempted development.

