

Farry Town Planning Ltd.

Suite 180
28 South Frederick Street
Dublin 2

Phone (01) 677 8180
Mobile 087 288 7311
vincentfarry@gmail.com

BY HAND ON

31 August 2022

Senior Executive Officer
Planning Department
Kildare County Council
Aras Chill Dara
Naas
Co. Kildare



LAND AT RIVERVIEW HOUSE THOMASTOWN CARAGH NAAS CO. KILDARE.

Dear Sir

We refer to the above, as more fully described in the attached report and we act for John Curry and Catriona Howley of Riverview House, Thomastown, Caragh, Naas. County Kildare in this matter.

We hereby lodge a request with Kildare County Council pursuant to section 5 of the Planning and Development Act, 2000 (as amended) in respect of a development which has been undertaken by the Referrors. We hereby seek a formal declaration from the Planning Authority on the following query:

'Whether the construction of a stable building and sand arena for use by the Referror's family alone, along with the removal of short stretches of hedgerow and two dying / diseased trees which were located on or close by the front boundary of the site and the planting and / or replanting of the removed shrubbery in the same location is development and / or is exempted development, at Riverview House, Thomastown, Caragh Naas Co. Kildare'

By way of background the Referrors, who secured planning permission for a detached house and separate double garage in the year 2011, have built a small (60 sq.m) stable building to house their daughters' two horses and created an equestrian sand arena on which these animals can be exercised. The Warning Letter of 21 July 2022 which was issued by the County Council suggests that this block and sand arena require planning permission and that they now comprise unauthorised development.

We respectfully invite the Planning Authority to consider whether the stable building might constitute exempted development. In this regard, Article 6(3) of the Planning and Development Regulations, 2001 (as amended) directs that 'development of a class specified in column 1 of Part 3 of Schedule 2 shall be exempted development...provided that such development complies with the conditions and limitations specified...' and it is our submission that this structure complies with Class 6 in Part 3 of the Second Schedule to the same Regulations, with this provision covering, *inter alia*, 'a roofed structure for the housing of...horses...having a gross floor space not exceeding 200 square metres.

It is also our view that the sand arena satisfies Class 10 of Part 3 ('Exempted Development – Rural') of Schedule 2 to the Planning and Development Regulations, 2001 (as amended) which states that an 'unroofed fenced area for the exercising or training of horses or ponies' on a 'soft surface material' is also exempt from the need to secure planning permission and we respectfully ask the Planning Authority to conclude that this feature is equally exempt from the need to secure planning permission.

To the degree that the final item on this Warning Letter also opines that planning permission is needed for the 'stables and sand arena' on the basis of a prohibition on commercial activity in the parent permission (wherein condition 10 therein stipulated that the land '*shall be used for domestic-related purposes only*' and which banned '*any commercial, workshop or other non-domestic use*'). Aside from the fact that these features are used solely by the Referror's family, there is absolutely no evidence of any commercial or other non-domestic activities being carried out anywhere on this land.

Yours faithfully


Farry Town Planning Ltd.

Kildare County Council
Planning Department

31 AUG 2022

RECEIVED

Farry Town Planning Ltd.

Suite 180
28 South Frederick Street
Dublin 2

Phone (01) 677 8180
Mobile 087 288 7311
vincentfarry@gmail.com

**REFERRAL ON A DEVELOPMENT AT
RIVERVIEW HOUSE THOMASTOWN CARAGH
NAAS CO. KILDARE**

**REPORT PREPARED ON BEHALF OF THE REFERROR
JOHN CURRY AND CATRIONA HOWLEY**



Vincent JP Farry BA MRUP LLB MSc DipEnvEng MRTPI MIPI MAPI

Index to Report

- 1. Introduction**
- 2. The Site and its Surroundings**
- 3. Select Planning History**
- 4. Referral Question**
- 5. Planning Law**
 - (i) Statutory Provisions**
 - (ii) Regulatory Provisions**
- 6. Planning Submission**
 - (i) Equestrian Development**
 - (a) The Use of Land for Equine Purposes**
 - (b) The Rural Location of the Land**
 - (c) The Area of the Existing Structure**
 - (d) The Provision of Effluent Storage Facilities**
 - (e) Location Considerations**
 - (f) Sand Arena**
 - (ii) Vegetation**
 - (a) Tree Removal**
 - (b) Shrubbery Removal**
- 7. Concluding Comment**

Appendices

- A Warning Letter**
- B Landownership Consent**



1. Introduction

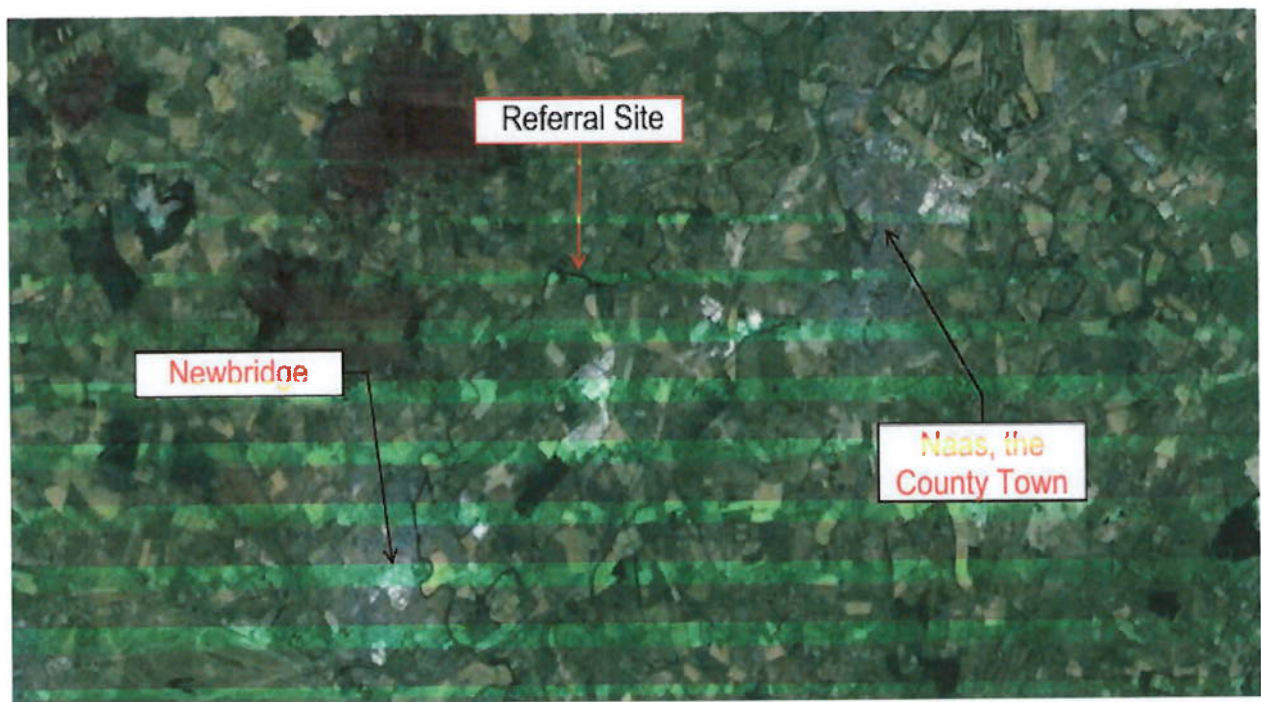
This submission has been drafted on behalf of the owners of a tract of land at Thomastown, Caragh Naas Co. Kildare and has been prepared for lodgement with the Council in relation to certain works which have been undertaken by the Referrors on this land. As discussed in s.3 below, Mr. Curry and Ms. Howley invite the Council to formally determine that the works which are described below and which are illustrated on drawings which accompany this submission comprise exempted development.

In view of the fact that this development is potentially the subject of litigation, which has been instigated by the Council through the service of a Warning Letter under s.152 of the Planning and Development Act, 2000 (as amended), our client seeks clarity on this issue and requests a formal determination under s. 5(4) of the Planning and Development Act, 2000 (as amended), on whether the works which have been carried out comprise exempted development, for which consent is not needed.

We have perused the file papers, inspected the subject site, examined the planning history of this land and identified the key provisions governing this issue and we have reached the conclusion that this development is wholly lawful and does not actually require the permission of Kildare County Council.

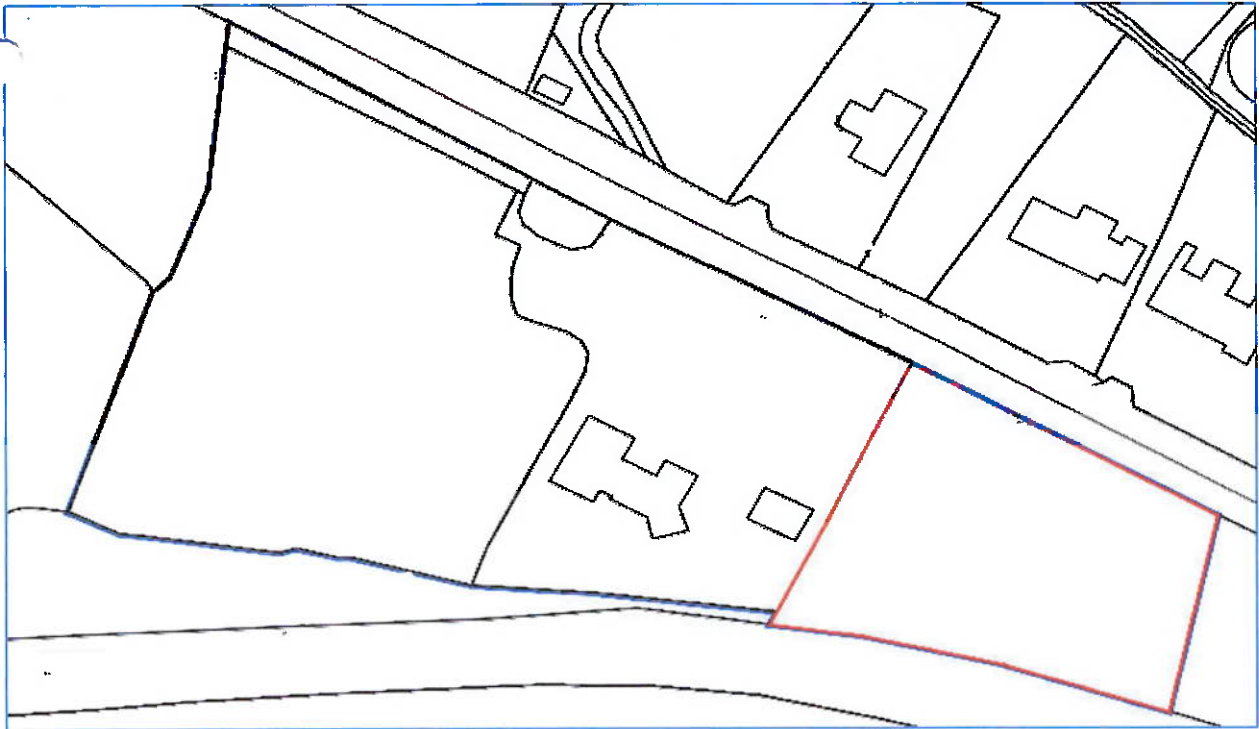
2. The Site and its Environs

The referral site is located in the open countryside of central Co. Kildare and is positioned roughly mid-way between Naas, the County Town and Newbridge Town, the largest centre in Co. Kildare



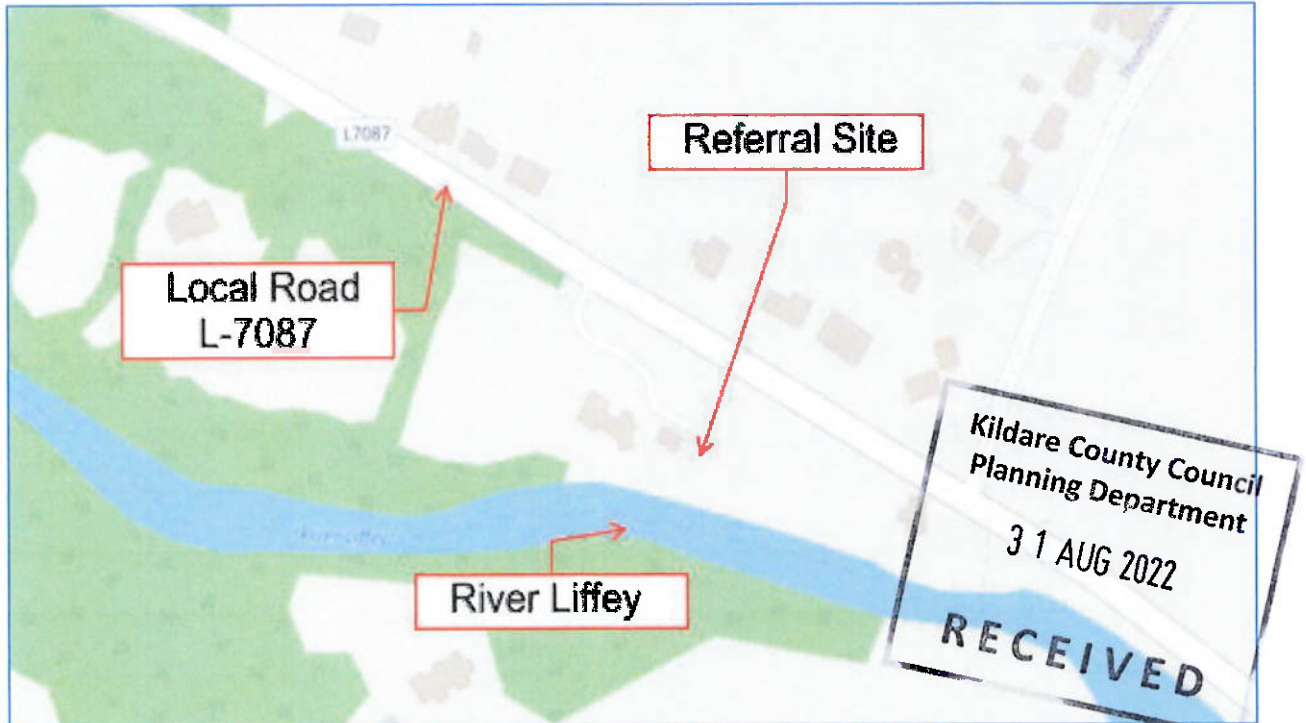
Aerial Image 1: The site is in a rural area between Naas and Newbridge in central Co Kildare.

The referral site, which is illustrated overleaf, is regularly-shaped and covers an area of 0.337 hectares (0.83 acres). This land, which was formerly laid out in grassland, now contains a stable block and a sand arena which is setback from the perimeter of this property, as well as a storage area for equestrian waste. This stable block and exercise arena is illustrated in photographs 1 and 2 on p.7 of this report.



Map 1: The site to which this present referral relates covers an area of 0.337 hectares (0.83 acres) which forms part of a smallholding of 1.4 hectares (3.5 acres).

The smallholding of which this referral site forms part fronts directly onto Local Road L-7087, a mainly linear (but partly sinuous), rural route which is properly surfaced and line-marked and which carries moderate traffic levels (this carriageway merely links Naas with the small town of Rathangan).



Map 2: The site is located between Local Road L-7087 and the R. Liffey

The Report of the Planning Officer in application reg. no 11807 described the site and its environs as:

'This site is located within the rural townland of Thomastown, along a local county road north-west of the M7 interchange near the Newhall Business Park. There are several one-off houses in the area with a mix of two-storey and single storey housing'.



Photographs 1 & 2: The referral site contains a stable block, which is used to accommodate the Referrers horses and a sand arena, for exercising the Referror's animals.



3. Select Planning History

On 4 November 2011, the Council granted consent for the following proposal beside the referral site¹:

'...the erection of a dormer / storey and a half dwelling,, proprietary waste water treatment system and percolation area, double domestic garage and all associated site works and for the removal of Condition no. 6 of Planning Register Reference 566/90 in order to desterilise the remainder of the overall landholding for the purposes of this planning application at Thomastown, Caragh Co. Kildare...'



Drawing 1: The façade of the dwelling which was subsequently built under reg. 12/667².

We reproduce condition nos. 6 and 10 of this parent permission, which are relevant to this referral³:

- '6(a) All existing hedgerows, trees and shrubs on all site boundaries shall be retained, preserved and maintained except at the proposed entrance, or where their removal is required to facilitate sightlines.*
- (b) All existing roadside boundary hedgerow / trees shall be carefully retained, apart from the 31 metres west of the entrance and 20 metres each of the entrance as shown on the site layout map drawing no. PLN-002 submitted on 08/08/11.*
- (c) The above sections of hedgerow shall be transplanted in accordance with the details submitted with the application.*
- (d) Existing on-site trees as shown on drawing no. PLN-002 submitted on 08/08/11 shall be retained.*

Reason: To protect the rural character of the area'

- 10. The overall site shall be used for domestic-related purposes only and not for any commercial, workshop or other non-domestic use.*

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

The Council, under reg. ED8095, served a Warning Letter under section 152 of the Planning and Development Act, 2000 (as amended) on the referrer in relation to four items, reproduced as follows⁴:

- '1. Unauthorised entrance, unauthorised arena and unauthorised stables and all associated works.*
- 2. Removal of on-site trees and hedgerows which is contrary to condition 6(a) and 6(d) of permission 11/807.*

¹ Planning application reg. ref. 11/807.

² This consent authorised the erection of a different dwelling to that which was permitted under reg. 11/807.

³ Note: an earlier application for a house beside the referral site under reg. 10/956 was refused permission.

⁴ This correspondence is dated 20 July 2022.



3. *Removal of roadside boundary hedgerow / trees which is contrary to condition 6(b) of planning permission reg. 11/807.*
4. *Use of the site for stables and sand arena which is contrary to condition 10 of planning permission 11/807'.*



Drawing 2: The permitted site layout which was shown on drawing PLN-002 (see also an enlarged version of this plan in drawing 3 overleaf).

4. Referral Question

We respectfully invite Kildare County Council to formally determine the following referral question:

'Whether the construction of a stable building and sand arena for use by the Referror's family alone, along with the removal of short stretches of hedgerow and two dying / diseased trees which were located on or close by the front boundary of the site and the planting and / or replanting of the removed shrubbery in the same location is development and / or is exempted development, at Riverview House, Thomastown, Caragh Naas Co. Kildare'

5. Planning Law

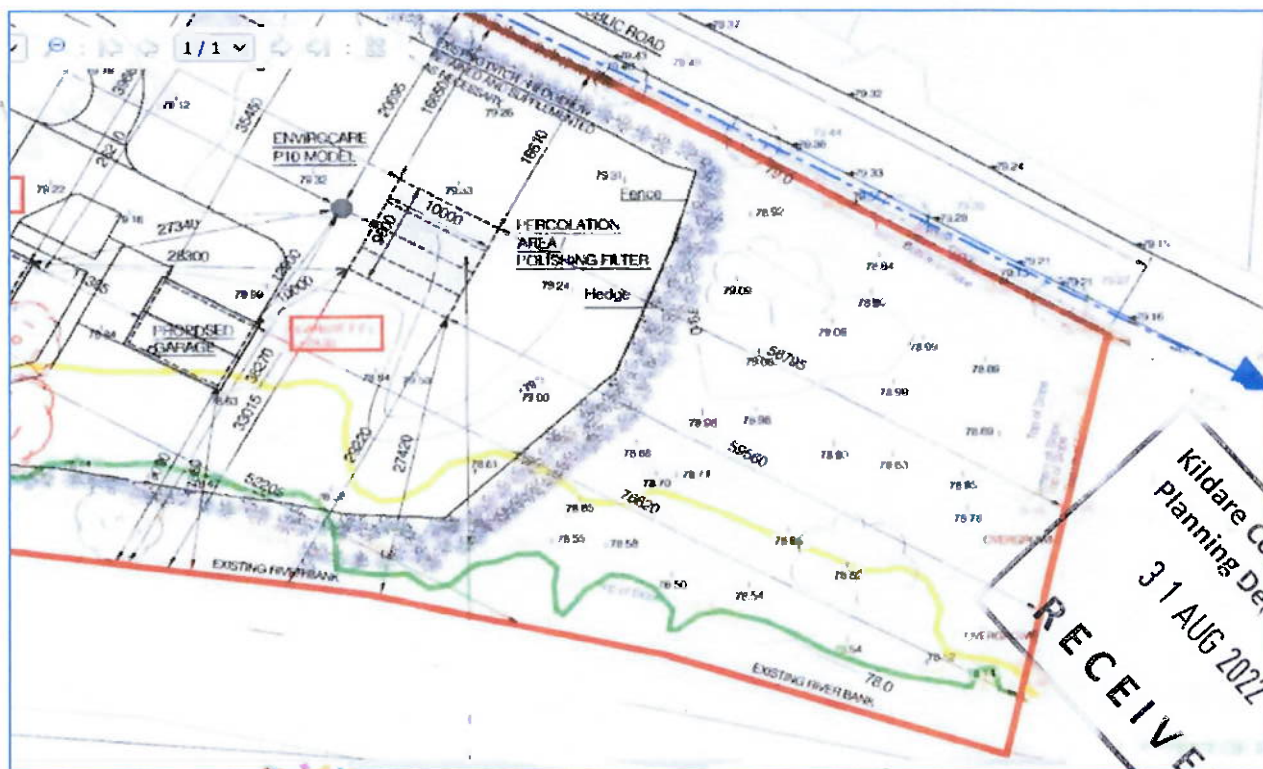
(i) Statutory Provisions

The definition of 'agriculture' in the Planning and Development Act, 2000 (as amended) includes:

'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds'

Section 4(1) of the Planning and Development Act, 2000 (as amended) is reproduced as follows:

'The following shall be exempted development for the purposes this Act-
(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used'.



Drawing 3: The eastern section of drawing PLN-002 which relates to the referral site itself.

(ii) Regulatory Provisions

Class 6 in Part 3 of the Second Schedule to the Planning and Development Regulations 2001 covers:

'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 be extension of an existing structure) or any ancillary provision for effluent storage'.

Class 8 in Part 3 of the Second Schedule to the Planning and Development Regulations 2001 concerns:

'Works consisting of the provision of roofless cubicles, open loose yards, self-feed silo or silage areas, feeding aprons, assembly yards, milking parlours or structures for the making or storage of silage or any other structures of a similar character or description, having an aggregate gross floor space not exceeding 200 square metres, and any ancillary provision for effluent storage'.

Class 9 in Part 3 of the Second Schedule to the Planning and Development Regulations, 2001 states:

'Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres'.

Class 10 in Part 3 of the Second Schedule to the Planning and Development Regulations 2001 covers:

'The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface'.

Article 6(3) of the Planning and Development Regulations, 2001 (as amended) states that the provisions in the Second Schedule can comprise exempted development, in the following locations:

'...in areas other than a city, a town or an area specified in section 19(1)(b) of the Act or the excluded areas as defined in section 9 of the Local Government (Reorganisation) Act, 1985 (No. 7 of 1985).'

Section 19(1) of the Planning and Development Act, 2000 (as amended) is reproduced as follows:

'(a) A local area plan may be prepared in respect of any area, including a Gaeltacht area, or an existing suburb of an urban area, which the planning authority considers suitable and, in particular, for those areas which require economic, physical and social renewal and for areas likely to be subject to large scale development within the lifetime of the plan.

(b) A local area plan shall be made in respect of an area which—

- (i) is designated as a town in the most recent census of population, other than a town designated as a suburb or environs in that census,*
- (ii) has a population in excess of 5000, and*
- (iii) is situated within the functional area of a planning authority which is a county council.*

The 'excluded areas' which are defined in section 9 of the Local Government (Reorganisation) Act, 1985 are located in Dublin City and County and none of these locations are within County Kildare.

Article 6(3) of the Planning and Development Regulations, 2001 (as amended) also states as follows:

'development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1'.

6. Submission

It is immediately apparent from the foregoing that many agricultural buildings in the countryside do not need planning permission, because they often satisfy the criteria for exempted development status.

In this regard, a key issue in this case comprises whether or not the subject site can accommodate a stable block and sand arena without permission and, based on the Council's Warning Letter of 20 July 2022, as discussed above, it would appear that the Planning Authority is not satisfied that this equine building and exercise facility satisfies the regulatory criteria for treatment as exempted development. The Council may also suspect that this equestrian development may be in use for commercial purposes, although this is not the case and we cannot identify any basis in reality for such a suspicion.

Equally, the Planning Authority may fear that tree and hedgerow removal from a rather small part of this overall smallholding may contravene certain components of condition 6 of planning permission reg. ref. no. 11/807, although the precise basis for such a conclusion it is not immediately apparent.

(i) Equestrian Development

(a) The Use of Land for Equine Purposes

The land is currently used for agricultural purposes and we draw attention to s. 4 of the Planning and Development Act, 2000 which categorises the 'use of land for the purpose of agriculture' as 'exempted development'. As 'the breeding and keeping of livestock...the training of horses and the rearing of bloodstock' forms part of 'agriculture', this site can be used for equine and general animal husbandry activities regardless of whether permission is granted for this proposal. In this regard, we ask the County Council to expressly acknowledge that this overall use of the landholding on which the stable is located for farming purposes does not require planning permission as a matter of principle.

In addition, Classes 6, 9 and 10 of Part Three of the Planning and Development Regulations (read with art. 6 thereof) prescribe that 'the provision of a roofed structure for the housing of...horses' and the 'erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface' are also exempted development, subject to size and location conditions, along with 'the provision of any store, barn, shed...other structure'. As a result, a number of buildings and structures which are required to accommodate agricultural activities on this holding do not require permission as a matter of generality.

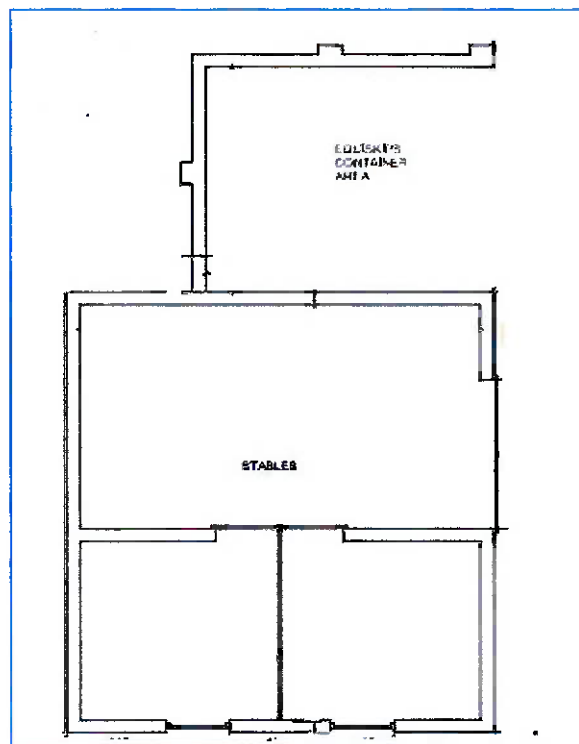
(b) The Rural Location of the Land

Whilst the site is between Naas and Newbridge, we note that it is located outside the formal boundary of any settlement, as identified in the *Kildare County Development Plan 2017*, which currently applies within this area. In this regard, no part of planning law stipulates that stable blocks, to be exempt, must be located on an agricultural holding. We invite the Council to follow the Board's approach in referral ref. PL23.RL3147 ('Whether the construction of a Class 9 agricultural shed 256 sq.m is or is not development or is or is not exempted development'), in which the Report of the Inspector stated:

'The Planners Report concludes that the work constitutes development within the meaning of the Act. And while the shed would appear to satisfy the conditions and limitations set out in Class 9 of Article 6(3), it is noted that the details show no landholding / farm holding associated with the shed... The structure in question according to the information contained on file, will be used for the purposes of agriculture, and is below the 300 sq. m. threshold for exemption...It is worth highlighting the fact that the applicant can only avail of the exempted development regulations on the basis that the structure in question will be used for the purposes of agriculture or forestry...If the building is used for the purposes other than agriculture it is de facto unauthorised...'

(c) The Area of the Existing Structure

We highlight drg. no. PA-02 ('Stables Building Plans, Elevations and Cross Section') which is dated August 2022 and which forms part of this referral; an extract from this drawing is reproduced below.



Drawing 4: The 60 sq.m Stable Block.



This drawing shows how the stable block accommodates a gross floor area of 60 sq. metres and it is our opinion that this feature complies with the floorspace limitation which is set out within Class 6 of Part 3 (*'Exempted Development – Rural'*) of Schedule 2 to the Planning and Development Regulations, 2001 (as amended), the first part of which is reproduced as follows for ease of reference:

'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'.

Moreover, there are no other similar structures within 100 metres of the Referror's smallholding and the subject stable building thus satisfies the wider floorspace requirement in condition 2 of this Class:

'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'

(d) The Provision of Effluent Storage Facilities

The development includes a dedicated area for the placing of equiskips containers, which are transported off-site for disposal elsewhere and we note how this arrangement has recently been endorsed by the Council, such as in reg. 18/632 which included *'a platform for the placing of containers for storing equestrian waste...'* as part of that development. In this regard, permitted drawing no. 1752.PLN.001 (entitled *'Site Location Map, Site Layout Plan and Site Section'*), stated:

'2 no. portable manure and bedding skips (to be provided by Equiskip) on bunded concrete...'

In this regard, we invite the Planning Authority to accept that this proposal complies with the third condition for exempted development status which applies to Class 6 of Part Three of the Regulations:

'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'.

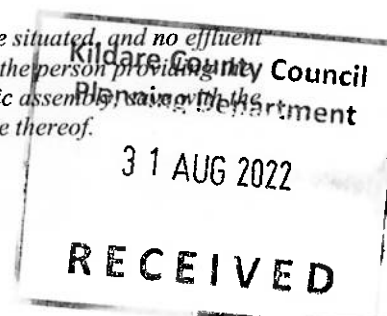
(e) Location Considerations

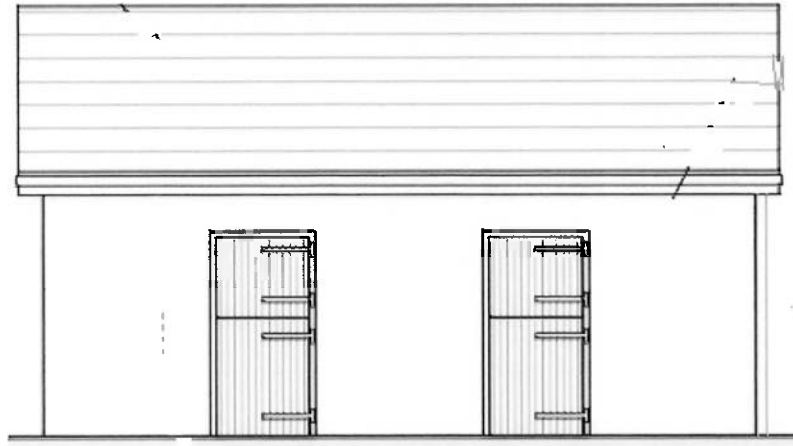
Condition 4 of this Class states *'No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road'* and, as shown on the enclosed drawings, the distance between this building and the public road exceeds 10 metres. The block also complies with condition 5 which stipulates *'No such structure within 100 metres of any public road shall exceed 8 metres in height'*. As shown overleaf, the stable block extends to less than 5 metres in height.

Turning to condition 6 therein, we enclose herewith a map which shows that five dwellings are located within 100 metres of the referral block and we attach herewith letters of consent from each owner. We invite the County Council to conclude that this development satisfies the following stipulation⁵:

'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'.

⁵ We submit that the proposal also satisfies item 6 of this Class viz. *'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.'*





Drawing 5: The stable block extends to 4.75m. in height

As per photograph no. 1 above, the development satisfies the final condition for exemption status viz. *'No unpainted metal sheeting shall be used for roofing or on the external finish of the structure'*.

(f) Sand Arena

It is our view that the Referror's sand arena satisfies Class 10 of Part 3 (*'Exempted Development – Rural'*) of Schedule 2 to the Planning and Development Regulations, 2001 (as amended) which states⁶:

'The erection of an unroofed fenced area for the exercising or training of horses or ponies, together with a drainage bed or soft surface material to provide an all-weather surface'.

As shown on drawing PA-01, this feature is 10.536m from the public road and is served by the existing access which leads to the Referror's home. These arrangements comply with condition 3 of Class 10:

'No such structure shall be situated within 10 metres of any public road, and no entrance to such area shall be directly off any public road'.

Contrary to the intimation in the County Council's Warning Letter, the sand arena is used solely for the exercising of ponies and horses which are owned by the referrer personally (thus satisfying the stipulation that *'No such structure shall be used for any purpose other than the exercising or training of horses or ponies'*) and we further confirm that this facility, being used solely in a private capacity, complies with the requirement that *'No such area shall be used for the staging of public events...'*

It is our view that this feature does not require consent under article 9(1)(a) of the Planning and Development Regulations, 2001 (as amended)⁷ as it does not breach condition 10 of permission reg. 11/807, which is reproduced above). This feature is used by the Referror's family for hobby / pastime purposes and not for *'any commercial, workshop or other non-domestic use'* as now being intimated.

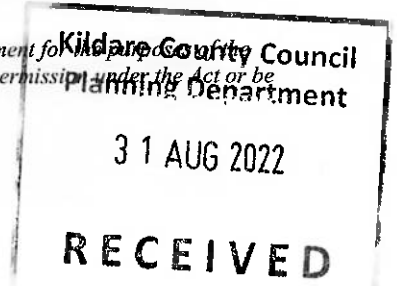
(ii) Vegetation

(a) Tree Removal

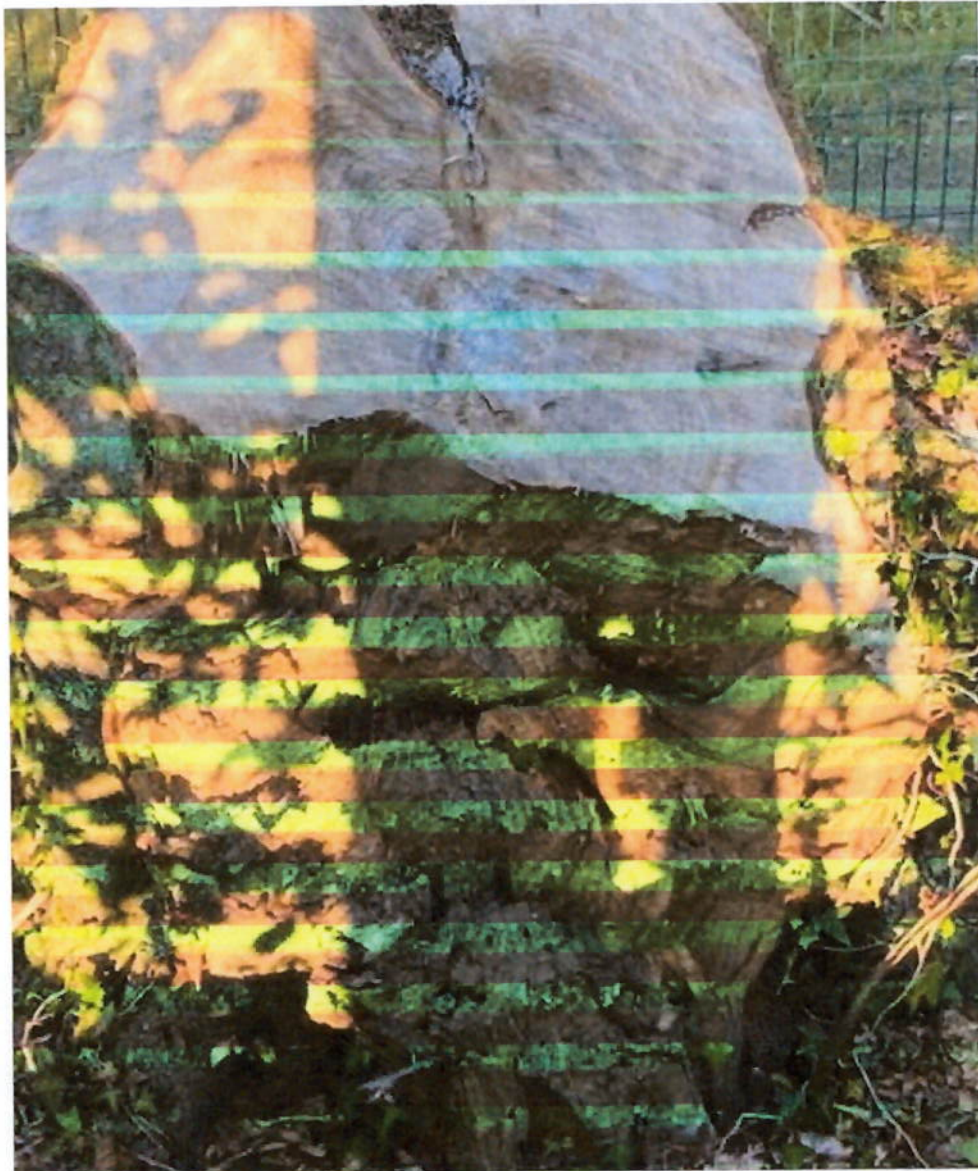
Kildare County Council has intimated, in its Warning Letter, that the removal of two trees from this overall landholding contravenes condition 6 of the planning permission for the Referror's dwelling.

⁶ The perimeter fence for this facility does not exceed 2 metres and this satisfies the fourth condition in this clause viz. *'The height of any such structure shall not exceed 2 metres'*.

⁷ This provision states that *'Development to which article 6 relates shall not be exempted development for the purposes of the Act or be inconsistent with any use specified in a permission under the Act...'*



The first of these features, comprising an ash tree, formerly grew in the position marked 'X' on the referral drawing, with the position of the second tree, a beech, previously having grown in the spot marked 'Y' on the attached drawing. These items were felled simply because they were dead or diseased and we take this opportunity to reproduce an image of the stump of the beech tree, below.



Photograph 3: The stump of the Beech Tree, now removed.

To the degree that the second and third items which are identified in the Warning Letter is concerned about the removal of trees which are covered by condition 6 of permission reg. 11/807, we note how item (b) and (d) of this stipulation expressly and explicitly relates to the features which were '*shown on the site layout map drawing no. PLN-002 submitted on 08/08/11*' and '*on-site trees as shown on drawing no. PLN-002 submitted on 08/08/11*'. We invite the Council to note firstly, that these trees were actually removed because of their condition and secondly, how neither the ash nor the beech tree were specifically identified on drg. PLN-002, which was originally approved by the Council in 2011.

Taking both circumstances into account, it is difficult to conclude that the felling of two dying or dead trees over a decade after this condition was imposed is development requiring planning permission.

(b) Shrubbery Removal

The referrer, in the honest and genuine belief that the creation of a new entrance to this site did not need consent, removed a mix of ivy, beech & maple hedging from the area which is marked as 'A' on the enclosed drawing and a number of laurel shrubs from the area highlighted as 'B' on this same plan. The referrer, at that time, did not recall how condition 6 of his original permission, of 11 years earlier, had stipulated that these features would be retained but, on realising that this is the case, carefully replanted these shrubs in the same position and engaged in replenishment planting so as to achieve the objective of this particular stipulation viz. *'To protect the rural character of the area'*



Photographs 4 & 5: The north-eastern front boundary of the site, as currently seen from Local Road L-7087 (above), is not materially different to its previous condition in the year 2011 (as it appears on Google Streetview, below)



7. Concluding Comment

It is our view that the stable building which has been built on this land constitutes exempted development on the basis that it falls squarely within Class 6 in Part 3 of the Second Schedule to the Planning and Development Regulations, 2001 (as amended), which covers, *inter alia*, 'a roofed structure for the housing of...horses...having a gross floor space not exceeding 200 square metres.

It is also our view that the sand arena satisfies Class 10 of Part 3 ('*Exempted Development – Rural*') of Schedule 2 to the Planning and Development Regulations, 2001 (as amended) which states that an '*unroofed fenced area for the exercising or training of horses or ponies*' on a '*soft surface material*' is also exempt from the need to secure planning permission and we note, in this particular regard, how this facility satisfies the locational and operational requirements which are set out within Class 10.

Yours faithfully



Farry Town Planning Ltd.



Appendices

**Kildare County Council
Planning Department**

31 AUG 2022

RECEIVED

Appendix A

Warning Letter



Comhairle Contae Chill Dara
Kildare County Council



WARNING LETTER

Ref No. UD8095

REGISTERED POST

Mr. John Curry,
Riverview House,
Thomastown,
Caragh,
Naas,
Co. Kildare,
W91 TW52 .

Dear Sir,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

1. **Unauthorised entrance, unauthorised arena and unauthorised stables and all associated works.**
2. **Removal of on-site trees and hedgerows which is contrary to condition 6(a) and 6(d) of planning permission 11/807.**
3. **Removal of roadside boundary hedgerow/trees which is contrary to condition 6(b) of planning permission 11/807.**
4. **Use of the site for stables and arena which is contrary to condition 10 of planning permission 11/807.**

On land at the following address:

Riverview House, Thomastown, Caragh, Naas, Co. Kildare W91 TW52.

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning and Development Act 2000 (as amended) you are entitled to make submissions or observations in writing to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard not later than four weeks from the date of service of this warning letter. Please clearly state the reference number in any correspondence to the Council.



Comhairle Contae Chill Dara
Kildare County Council



Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.

The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Act 2000 (as amended) provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Act 2000 (as amended) provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

The possible penalties involved where there is an offence are as follows:

- Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,
Or
- Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning and Development Act 2000 (as amended) any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning and Development Act 2000 (as amended), which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Act 2000 (as amended), which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed:


Senior Executive Officer
Planning Department

Date: 25 July 2022



Appendix B Landownership Consent





Properties within 100 metres of stables:

- Property 1 : Liam Cully
- Property 2 : Bernard Morrin
- Property 3 : Sean Sweeney
- Property 4 : Timmy Conway
- Property 5 : EY (In receivership)



John Curry
Riverview
Thomastown
Naas
Co Kildare
W91TW52

John,

I consent to stables and associated effluent storage located at Riverview, Thomastown, Naas, Co. Kildare.

Signed: Lean Curry

Name: Lean Curry

Address: Thomastown, Caragh, Naas

