



An
Bord
Pleanála

Inspector's Report 05E.247730

Development	General purpose agricultural storage shed adjoining the existing multi-purpose agricultural shed with all associated site works.
Location	Galdonagh, Manorcunningham, Letterkenny, Co Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	16/50942
Applicant	Patrick Lynch
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Sharryn McLaughlin
Date of Site Inspection	4 th April 2017
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is located in the townland of Galdonagh, Manorcunningham, Letterkenny, Co Donegal. The site is located off a local road which runs between the N13 Letterkenny to Derry road c2.5km to the north and the N14 Letterkenny to Strabane road c2km to the south. The site is elevated with reference to this local road and the land continues to rise to Dooish Mountain which is to the east. The site is served by a minor local road which runs uphill east from the local road and south, between farm buildings, continuing southwards as a track, to serve a recently constructed dwelling to the north east of the subject site, the subject site and various lands. There are gate posts along the roadway and changes in surface suggesting various shared ownerships of the access route, beyond the agricultural buildings to the north.
- 1.2. Land in the general area is good pasture land and appears to be actively farmed.
- 1.3. The access road into the site follows a route which appears on historic mapping. Hardcore has been deposited on the access road. An existing building erected on the site is approximately as shown in the drawings submitted, but the northern elevation has 3 large doorways and no pedestrian door, which is not as represented on the drawings.
- 1.4. On the date of inspection an excavator was excavating the edge of an area to the west of the proposed building, adjacent to an area indicated as a quarry on historic mapping. This area had been excavated and levelled to c5 metres below the level at the existing building, and hard core laid down. The drawings submitted refer to a roofed dung shed and silage pit being developed, subject to separate planning application, in this location. Three phase electricity lines carried on poles, is undergrounded where it crosses the excavated area.
- 1.5. The site is given as 0.3418ha and is part of a larger landholding owned by the first party at this location.

2.0 Proposed Development

- 2.1. The proposed development is the erection of a general purpose agricultural storage shed adjoining the existing multi-purpose agricultural shed with all associated site

works. The proposed shed is 12m wide x 18.72m long x 5.79m high to ridge. The portal frame structure with the lower part of walls rendered, with corrugated panels above and corrugated sheeting for the roof, and in this regard it appears to be similar to the existing shed on the site. A large roller shutter doorway is proposed in the western elevation with a matching door proposed in the eastern elevation. Beyond the description 'general purpose agricultural storage', no specific use is given for the shed which is 215m².

- 2.2. Further information submitted has detailed the usage of the existing multi-purpose shed as the storage of a tractor on occasion, storage of other agricultural machinery/implements such as trailers, slurry tanker, plough, grass mower, fertiliser spreader; maintenance / repair of the agricultural machinery / implements; fertiliser storage; storage of fencing materials / tools. The detailed usage of the proposed shed is given as - meal storage, cattle nut storage, straw storage (a substantial amount required to cater for the winter housing of 45 to 55 head of cattle associated with the permitted dry bedded cattle shed), molasses tank, diesel tank. There is substantial investment envisaged in the coming years for additional machinery required to serve the farmyard; machinery: cattle diet feeder, JCB type Farm Master (with bucket / silage fork / silage sheer grab), silage harvesting wagon, and dung spreader. These are bulky items requiring substantial amount of space.
- 2.3. The response to the further information request states also that traffic volumes will have different intensities depending on the season: an average of 2 trips per day by the applicant. other traffic including tractors 10 per week, depending on farming activity. The majority of trips will be between the farmyard and surrounding lands and will not necessitate use of the public road. Deliveries likely to be on average 2 per month. A good proportion of traffic will be offset against less need to leave the farmyard.
- 2.4. Surface water proposals are included in the further information response.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided, 25/11/2016, to grant permission subject to 3 conditions, including:

2: the use to be for the storage of agricultural machinery and products only and not for the housing of livestock, animals, waste(s) or effluent.

3: (a) surface water shall not discharge to the public road or laneway and no road water to discharge onto the site.

(b) collection and disposal of storm water to be in accordance with revised plans.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report dated 17/8/2016 recommending a further information request.

- This is one of 3 concurrent applications: 16/50943 and 16/50944 also refer.
- UD 13262 previous enforcement case - non conformity with the approved plans, etc of planning permission ref. reg. no. 14/51045 conditions 1 and 2 by reason of excavation / levelling of lands to south west and north east, use of shed as a service/storage building and use of overall site as a base for an engineer utilities company. The use ceased and the enforcement file was subsequently closed.
- Submissions
 - re. use of the access road, traffic safety, children walking. Response – local roads engineer has no objection. There is an existing shed at this location and a further shed for agricultural use is not unreasonable.
 - re. status of the road. Response – access roads are a combination of a local tertiary road and a private road. The private road commences at the location of the site notices.

- re. planning history and lack of planning conditions leading to unreasonable length of time for site works. Response - the unauthorised enforcement case referred to has been investigated and the council is satisfied that same has now ceased and has resulted in the closure of the file. The proposed use is acceptable in principle.
- re. clarification of what constitutes site works, time limits and working hours. Response - the permission duration is 5 years, construction hours will be controlled by condition. It is not the practice to control farming hours once operational as agricultural structures.
- The access laneway to the north west is used as both an agricultural laneway and serves a dwelling house. Permission exists for a dwelling on the opposite site of the laneway. Existing shed is not visually dominant from surrounding vistas. Applicant seeks to construct a dry bed shed for general purposes.
- A further information request issued on two points – 1) specific use/purpose of the shed, projected traffic volumes and justification of need; 2) clarification of proposals for the collection, management and disposal of surface water.

Report dated 22/11/2016 recommending permission, states satisfaction with response to further information request. Further to comment in previous report that construction hours would be conditioned, it is not standard practice to limit construction hours and it would be considered unreasonable. Any nuisance arising can be regulated by other legislation.

3.3. Other Technical Reports

3.4. EE Roads Stranorlar – (first report) new 225 diameter pipe to be laid for storm water disposal and discharge to watercourse, discharge to a land drain (as proposed) is not permitted, (second report) standard conditions.

3.5. **Observation**

3.6. An observation received by the planning authority refers to three applications – observer is concerned about access which has historically been used for access to

surrounding fields. It is not maintained other than by the observer. It is unsuitable for additional traffic because of its single width. It will not tolerate the level and type of construction traffic. Traffic safety, of children playing and using the access to get to school buses at the junction of the county road, is of concern. They seek clarification on track status. A previous application had no conditions attached with regard to associated siteworks. This resulted in activity between 6am and 10pm 7 days per week; with between 30/40 vehicle movements per day and at times reaching 100 movements per day, only ceasing as a result of enforcement action. They seek clarification of what the siteworks involve, time limits and building hours. They have no objection to sincere farming. The applicant has other site options on his adjoining land and the development of this satellite is illogical. None of the genuine farming works by other farmers has caused any nuisance. The applicant's breach of planning has caused huge interference and disruption to their home life.

4.0 **Planning History**

14/51045 permission for existing shed.

UD 13262 previous enforcement case - non conformity with the approved plans, etc of planning permission ref. reg. no. 14/51045 conditions 1 and 2 by reason of excavation / levelling of lands to south west and north east, use of shed as a service/storage building and use of overall site as a base for an engineer utilities company. The use ceased and the enforcement file was subsequently closed.

16/50943 and 16/50944 – applications which were concurrent with the subject application for agricultural structures / buildings.

5.0 **Policy Context**

5.1. **Development Plan**

The County Donegal Development Plan 2012-2018 is the operative plan.

Relevant provisions include:

The site is on the edge of an area identified in the plan as being under strong urban

influence.

The plan acknowledges that the traditional activities of farming, tourism and forestry still have an important role to play in the rural economy of the county.

5.2. Natural Heritage Designations

None relevant

6.0 The Appeal

6.1. Grounds of Appeal

Peter Sweetman & Associates have submitted the appeal on behalf of the third party. The grounds of appeal includes:

Recent applications are listed:

16/50942 – erection of general purpose agricultural storage shed.

16/50943 – granted 23/9/2016: erection of silage pit, roofed dungstead with seep tank and site works.

16/50944 - granted 23/9/2016: erection of silage pit, roofed dungstead with seep tank and site works.

Planner's report for 16/50943 states permission granted for a multi-purpose shed with all associated site works. Regarding the reference to enforcement in the planner's report; it is their submission that this development is still being used for excavation / levelling the lands to the south west and north east for use as a parking area; the use of the permitted multipurpose shed as a service / storage building; and the use of the overall site as a base for an engineer utilities company.

The planning authority found i) excavation / levelling of lands to the south west and north east of the permitted multi-purpose shed for use as a parking area. This shows that in the opinion of the planning authority unauthorised works have taken place on this site. Therefore, for an application to be valid, it must be for retention. This is an invalid application and must be refused. The third party is entitled to their costs.

6.2. **Planning Authority Response**

6.3. The Planning Authority has responded to the grounds of appeal, they are satisfied that all unauthorised developments have ceased and investigations under this case reference have been closed.

6.4. In any event allegations of unauthorised development are a separate matter. The planning authority is satisfied that the extent and nature of development authorised by the permission is clear. They refer the Board to the planner's reports.

6.5. **First Party Response**

6.6. Cullinane Steele Architects has responded on behalf of the first party to the grounds of appeal, including:

They are satisfied with the submitted planning application and rely on the planning authority's assessment of same and its validity.

7.0 **Assessment**

7.1. The issues which arise in relation to this appeal relate to appropriate assessment, the principle of the development, traffic safety and the validity of the permission, construction hours and this assessment is dealt with under these headings.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and 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.

7.3. **Principle of the Proposed Development**

7.3.1. The site is located in an area where the main use is agriculture. The proposed development is therefore acceptable in principle.

7.3.2. **Traffic Safety**

7.3.3. Traffic safety is not referred to in the grounds of appeal, but the issue has been raised by the observer in a letter to the planning authority.

- 7.3.4. The site is accessed via a trackway which extends from a minor county road. The extent of track within the applicants control is shown as being within the site i.e. enclosed within the site boundary. The third party's dwelling is accessed by a driveway which joins the subject site at the point of access, beyond which the track has a loose stone surface but is not black topped. The stone surfaced road is relatively narrow but there are wide verges over some sections.
- 7.3.5. Having regard to the likely level of traffic, and notwithstanding that it's likely composition will have a significant proportion of tractors and heavy goods type vehicles, I consider that the access is suitable for the proposed development and that traffic hazard should not be a reason to refuse permission.
- 7.3.6. **Validity of Decision**
- 7.3.7. The grounds of appeal refers to the fact that a letter of enforcement was issued to the first party, in relation to development occurring on the land, and states that the excavation / levelling of lands to the south west and north east of the permitted multi-purpose shed for use as a parking area was in the opinion of the planning authority unauthorised works. The third party considers therefore that the application and must be refused because to be valid it must be an application for retention.
- 7.3.8. The grounds of appeal states that it is their submission that the use of the permitted multipurpose shed as a service / storage building; and the use of the overall site as a base for an engineer utilities company, is continuing.
- 7.3.9. The planning authority has responded that they are satisfied that all unauthorised developments have ceased and investigations under this case reference have been closed.
- 7.3.10. The planning report on the application stated that the enforcement notice referred to non conformity with the approved plans, etc of planning permission ref. reg. no. 14/51045 conditions 1 and 2, by reason of excavation / levelling of lands to south west and north east, use of shed as a service/storage building and use of overall site as a base for an engineer utilities company. The report states that the use ceased and the enforcement file was subsequently closed.
- 7.3.11. On the date of inspection an excavator was working on these lands but the excavated area appears to be outside the site boundary. The planning report refers to concurrent applications; and in the grounds of appeal there is reference to

16/50943 a permission granted on 23/9/2016, for the erection of silage pit, roofed dungstead with seep tank and site works. It seems likely that the location referred to in the grounds as unauthorised excavation / levelling of lands to south west and north east of the subject development is the area where the erection of a silage pit etc., was granted under reg. ref. no. 16/50943. In any case the area being excavated is outside the subject site.

7.3.12. In relation to any unauthorised use of the existing shed, the planning authority is satisfied that such use has ceased. I am satisfied, therefore, that the current use of the building is agricultural use, and further that it is a matter for the planning authority to control the use of any premises. The application process must consider the suitability of the proposed use. The applicant has satisfied the planning authority that the intended use is agriculture and has submitted details of such use and the need for such a building.

7.3.13. I am satisfied that the use should come within the uses set out in class 9 of Part 3 of Schedule 2 to the Planning and Development Regulations 2001 for a store, barn or shed which is not to be used for housing livestock.¹ The use class covers all the intended purposes for the shed as they have been set out in the response to the further information request.

7.3.14. I consider that should the Board be minded to grant permission a condition to this effect should be attached.

7.3.15. **Construction Hours**

7.3.16. In the observation to the planning authority the construction hours was raised as a cause of concern. The third party's dwelling is some 150m from the proposed development and the planning authority, having considered the matter, decided not to limit the construction hours. I consider that there should be some limit applied to the construction hours and should the Board be minded to grant permission a condition to this effect should be attached.

¹ the condition for exemption under class 9 is that '*no such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.*'

8.0 Recommendation

- 8.1. In light of the foregoing assessment it is recommended that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

Having regard to the nature of the proposed development and its intended agricultural use, on a farm and within a farm complex, where it is associated with an existing farm building, it is considered that the proposed development is acceptable in principle, would not create a traffic hazard or impact unduly on the amenities of this rural area and would accordingly be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on 28th October 2016 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 The disposal of surface water shall comply with the requirements of the planning authority for such works, in particular no surface water from the site shall discharge to the public roadway or the laneway and the collection

and disposal of all storm water from the site shall be in accordance with the revised plans, details and particulars submitted on 28th October 2016.

Reason: To prevent flooding.

- 3 The proposed shed shall not be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.

Reason: To define the use of the shed in the interest of clarity.

- 4 Site development and building works shall be carried only out between the hours of 07.00 to 21.00 Mondays to Fridays inclusive, between 08.00 to 18.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

Planning Inspector

6th April 2017