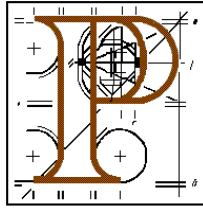


An Bord Pleanála



Inspector's Report

PL03.245604

Development

Retention and completion of a partially constructed agricultural storage shed and associated site works.

Kiltrellig, Kilbaha, Kilrush, County Clare

Planning Application

Planning Authority: Clare County Council

Planning Authority Reg. Ref.: 15/501

Applicant: Eoin Gibson

Type of Application: Planning permission

Planning Authority Decision: Grant permission

Planning Appeal

Appellant(s): Henry Kennaugh

Type of Appeal: Third v grant

Observers: None

Date of Site Inspection: 6th December 2015

Inspector: Karla Mc Bride.

1.0 INTRODUCTION

1.1 Summary

This is a Third Party appeal against the decision of Clare County Council to grant planning permission for the retention and completion of an agricultural shed along with associated site works.

1.2 Site and location

The appeal site is located along the Loop Head peninsula in SW County Clare. The surrounding rural area is characterised by an open and level landscape with clear views to the coast and there are several detached houses in the vicinity. The site is located on the south side of the R487 and to the rear of an existing farm complex.

Photographs in Appendix 1 describe the site and location in some detail.

1.3 Proposed Development

Permission is being sought to retain and complete an agricultural storage shed.

- The existing works comprise the steel framework and timber purlins for an agricultural storage shed.
- The completed shed would be 752sq.m and c.22m wide, c30m deep and between c.4.1m and 7.4m high.
- The shed would be mainly open at ground level up to a height of c.2m and the upper levels (c.2m to c.5.4m) would be clad in colour coated steel.
- The shed would be set back c.100m from the roadside boundary.
- Access would be via the existing vehicular entrance off the R487 to the N.
- All associated site works.

1.4 Planning Authority's Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 4 standard conditions.

- Condition no.2 restricted the use of the shed to agricultural storage purposes only and prohibited the use of the shed for housing animals.

This decision reflects the report of the County Planning Officer.

Interdepartmental reports:

No reports on file.

Prescribed bodies:

An Taisce raised the following concerns:

- Development should comply with EU Directives (Habitats and Water Framework) and Development Plan policies.
- Site located within a Heritage Landscape.
- Drinking water and waste management issues and both surface water and ground water should be protected.
- Appropriate Assessment required.

Public submissions:

One submission received from Margaret and Henry Kennaugh who object to the proposed development:-

- Unauthorised development (structure and access);
- Visual impact on sensitive heritage landscape, excessive scale and height and not located close to existing farm structures;
- Precedent;
- Non-compliance with site notice regulations;
- Applicant owns a plant hire company in Kilkee, no evidence of dairy farming partnership and facility should be located in an industrial area;
- Incomplete land ownership details and access traverses a separate land owners property;
- No details of associated site works;
- Unsafe vehicular access and traffic hazard;
- The applicant lives in Kilkee and not the adjacent house.

One written representation received from Councillor Gabriel Keating which raised no issues.

1.5 Appropriate Assessment

The site is located within 600m of the Lower Shannon SAC and an AA Screening exercise was carried out. The exercise concluded that the proposed development would not adversely affect the integrity of a European site (including its conservation objectives and qualifying interests) and that a Stage 2 NIS was not required.

1.6 Planning history

Planning applications:

Reg. Ref.: 08/1197 – Permission granted for cubicle shed with under slat tank and over ground slurry store and site works.

Reg. Ref.: 02/1183 – permission granted for a 276sq.m cattle, a 175sq.m. Cubicle shed covered slurry tank, silage slab and yard.

Reg. Ref.: 97/163 – Permission granted for a slatted shed.

Enforcement:

UD15-055 – Complaint received in relation to unauthorised structure for which retention permission is now sought and A Warning letter was issued.

Pre-planning:

No record of any meetings on file.

2.0 DEVELOPMENT PLAN

The site is located within an area covered by the County Clare Development Plan 2011 to 2017 and the West Clare Local Area Plan 2012-2018; and it is located along a designated Scenic Route and adjacent to a Heritage Landscape.

Scenic routes:

Objective DCP16.6 seeks to:

- a. To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;
- b. To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact;

- c. To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.

Heritage landscapes:

The coasts around the Loop Head peninsular are designated Heritage Landscapes.

Objective DCP16.5 seeks to require that all proposed developments in Heritage Landscapes, demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal- from site selection through to details of siting & design. All other relevant provisions of the Development Plan must be complied with. All proposed developments in these areas will be required to demonstrate:-

- i. That sites have been selected to avoid visually prominent locations.
- ii. That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads.
- iii. That design for buildings and structures minimise height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development.

Natural Heritage:

The Lower Shannon SAC is located c.600m to the S.

Built Heritage:

There are no Recorded Monuments, Protected Structures or Architectural Conservation Areas in the vicinity.

Development Management Guidelines: Agricultural Developments

Section A1.8 states that in considering proposals for agricultural development (including sheds) the Planning Authority will have regard to the Department of Agriculture Guidelines and Recommendations on the Control of Pollution from Farmyard Wastes together with the following:

- Siting and design, which should be in sympathy with the surrounding area.
- The use of muted coloured materials.
- Grouping of buildings will be encouraged.
- Adequate effluent storage facilities.

- The Planning Authority will require adequate provision for the collection, storage and disposal of effluent produced from agricultural developments.

The Living Farmland, a guide to farming with nature in Clare (2008), is a useful reference to issues for consideration when planning farm developments

3.0 APPEAL

3.1 Third Party appeal

Downey Planning submitted a Third Party appeal on behalf of Margaret and Henry Kennaugh:

- The true extent of the development has not been correctly described in the public notices as per Articles 18 and 19 of the Regulations as reference is only made to the retention and completion structure and there is no mention of the unauthorised entrance which is hazardous.
- There are inaccuracies and omissions in the planning application documents, the applicant lives 15 miles away in Kilkee operates a contracting and plant hire business and it is submitted that he intends to use this shed as a depot for this business
- The site notice was not erected at all entrances from the public road as per Article 19, and the site location map does not meet Article 22 requirements as the applicant has not clearly identified the entire lands within the landowner's ownership.
- The applicants have continuously misled the planning authority in the development of the farm yard; they have not sought regularise the entire farm yard but have applied for retention permission for the structure because of the Council's enforcement proceedings.
- There are a series of unauthorised works taking place on the lands which include:
 - (a) Two silage slabs which are not exempted development under Class 8 as the cumulative area of farming structures on the site exceeds 1000sq.m. and the 2002 permission expired in 2007 before the silage slab was constructed 2009.

(b) The utilisation of the existing entrance without the benefit of planning permission, and the use of additional entrance with no details provided in relation to sightlines or traffic safety.

- The cumulative impacts of these unauthorised developments are significant along a designated scenic route an adjacent to a heritage landscape.
- Non-compliance with Development Plan and West Clare LAP in relation to the landscape, heritage and scenic route designations; lack of regard to siting; excessive height and scale; insufficient information submitted to enable a proper visual impact assessment; and materially contravention of Objectives CDP 16.5 and 16.6.
- Attached visual impact assessment illustrates the structure's impact on the designated scenic route and the Appellant's visual amenity and views in the surrounding area.
- An Appropriate Assessment Screening report of cumulative impacts should have been submitted, given the impact of farming activity water quality and AA should have formed an integral part of the assessment.
- Undesirable precedent for permitting unauthorised developments.
- Applicants have continues to progress with the unauthorised works.

3.2 First party response submission

Hassett Leyden and Associates submitted a response on behalf of the First Party to the Third party appeal:

- The structure will facilitate the agricultural activities of the family farm and it will be used for the storage of hay, straw and agricultural equipment, machinery and vehicles, it will not be used for housing animals or the storage of commercial vehicles.
- The applicant entered into a "Milk Production Partnership" with his mother and father (registration details on file); the applicant offers seasonal agricultural services to his neighbours (silage and hay baling, slurry spreading etc); and machinery needs to house because of adverse coastal weather conditions.
- Appellant accepts that the structure is unauthorised however all other farm yard structures have the benefit of planning permission, are exempt from the need to apply for permission, or are historic structures.

- The primary function of the land is agriculture, the farm adjoins but is not within the heritage landscape and the public road serving the farm is a designated Scenic Route; the Development Plan does not prohibit the working, improvement and development of agricultural lands in the open countryside.
- The public notices were adequately posted and maintained on the site and in the newspaper; and the site location map is accurate.
- The Loop Head Peninsula is a working agricultural landscape and not a theme park despite its popularity as a tourist area; the proposed structure is a large but straightforward agricultural shed which will have a similar finish to other existing farm structures, with no adverse impacts on the amenities of the area.
- Letters of support attached from 4 local landowners along with a letter of support from Jim Connolly the founder and Chairman of Rural Re-Settlement Ireland (attached on case file).

3.3 Planning Authority response

The Planning Authority response submission raised no new issues.

3.4 Prescribed Bodies

The appeal was circulated to the Development Applications Unit of the DAH&G, the Heritage Council, Fáilte Ireland, An Chomhairle Ealaíon, and Inland Fisheries Ireland for comment with no response to date.

4.0 REVIEW OF ISSUES AND ASSESSMENT

The main issues arising in this case are:

1. Principle of development
2. Landscape and visual amenity
3. Residential amenity
4. Vehicular access
5. Other issues

4.1 Principle of development

The development proposed for retention and completion would be located within a rural area and the storage shed would be compatible with the agricultural use and character of the surrounding area.

According to the Part 1 of the planning application form and the public notices the completed structure would be used as an agricultural storage shed. Eoin Gibson (the applicant) states in Section 10 of Part 1 of the planning application form that he is not the landowner and that the land is owned by John Gibson (his father).

According to Section 2 of Part 4 of the planning application form the purpose of the proposed storage shed is to provide for the better management of existing livestock but not to increase stock levels and details of the current arrangements for the management of 40 dairy cows are provided in the subsequent sections. Section 10 states that no animals will be housed in the new shed.

The Appellant has raised concerns that the shed would not be used for agricultural and would possibly be used for the storage of machinery related to the applicant's commercial premises at Kilkee.

The Applicant's response submission confirms that the structure is required for the storage of agricultural hay, straw, machinery, equipment and vehicles, having regard to the adverse coastal weather conditions experienced at Loop Head.

The use of the structure should be restricted to the storage of agricultural equipment and machinery which is used in the area by local farmers and it should not be used for the storage or sale of machinery and equipment for commercial purposes, either from the shed or from another location. Furthermore the shed should not be used for housing animals as it has not been designed for that purpose. These issues could be addressed by way of a planning condition.

4.2 Landscape and visual amenity

The agricultural storage shed proposed for retention and completion would be located within a coastal rural area along the Loop Head peninsula and the surrounding landscape is open, exposed and level. The proposed shed would be located c.100m to the S of a Designated Scenic Route and adjacent to, but not within a designated Heritage Landscape to the W and S.

The shed would be located within an existing farm complex which comprises several agricultural structures of various ages, designs and heights. It would be set back c.100m from the roadside boundary and c. 28m from the neighbouring structure to the N. The existing works comprise the steel framework and timber purlins for a 752sq.m agricultural storage shed; the completed shed would be c.22m wide, c.30m deep and between c.4.1m and 7.4m high; and it would be mainly open at ground level with the upper levels clad in colour coated steel.

Section A1.8 of the Development Plan states that the siting and design of agricultural structures should be in sympathy with the surrounding area, sheds should be finished in muted coloured materials and the grouping of buildings will be encouraged. The development proposed for completion and retention complies with these requirements subject the attachment of a colour condition. It is also noted that the structure would contribute to the better management of the existing farm.

Having regard to the low lying and level character of the surrounding countryside, the shed would be visible on the skyline when travelling SW along the R487 Scenic Route towards Loop Head although the visual impact would not be significantly adverse. Furthermore, this is a working agricultural landscape and the shed would be located within an existing and long established farm complex which is not covered by the Heritage Landscape designation. Therefore I am satisfied that the development proposed for retention and completion would be acceptable subject the attachment of a colour condition to ensure that the appearance of the structure remains muted.

4.3 Residential amenity

The agricultural storage shed would be set back c. 80m from the neighbouring house to the NW which is owned by the Appellant. The neighbouring house would not be overlooked or overshadowed by the structure. Although it would be highly visible when viewed from the neighbouring house it would not be located within the line of any designated protected views. The development proposed for retention and completion would not seriously injure the residential amenities of any neighbouring houses in the vicinity.

4.4 Vehicular access and car parking

There are number of vehicular access points to the farm complex off the R487 however it is not entirely clear from the submitted plans which of the entrances would be used. The R487 is a long straight road and the sightlines from all of the entrances are adequate in either direction and their use would not give rise to a traffic hazard or endanger the safety of other road users. However the Appellants have raised concerns in relation to whether not the western most entrance has the benefit of planning permission. For the avoidance of doubt, a condition should be attached to any grant of planning permission to ensure that the vehicular access to the development proposed for retention and completion is via an authorised entrance.

4.5 Other issues

Appropriate assessment: The site does not have any direct aquatic connection to the Lower Shannon SAC which is located c.600m to the S and the proposed works would not have an adverse effect on the integrity of this European site.

Environmental services: According to Section 20 of the planning application form the shed will be served by water from a private well, organic waste from the shed will be spread on land and that surface water will be disposed of via a soakpit. The proposed arrangements are considered acceptable subject to compliance with the requirements of Irish Water and the County Council.

Financial contribution: None required for agricultural developments.

Unauthorised development: The concerns raised by the Appellant noted.

Legal interest: The concerns raised by the Appellant noted, however it is clear from the documentation on file that lands belong to the Applicants parents.

Site notices: The concerns raised by the Appellant noted.

5.0 RECOMMENDATION

Arising from my assessment of the appeal case I recommend that planning permission should be granted for the proposed retention and completion of the development for the reasons and considerations set down below, subject to compliance with the attached conditions.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the current Development Plan and to the nature, and scale of the development proposed for retention and completion, it is considered that subject to compliance with the following conditions, the development proposed for retention and completion would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, 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 use of the structure shall be restricted as follows:
 - (a) The structure shall be used for the storage of agricultural equipment and machinery for use in the local area and the structure shall not be used for the storage or sale of machinery and/or equipment for commercial purposes, either from the shed or from another location.
 - (b) The structure shall not be used for the housing of animals.

Reason: In the interest of clarity and to protect the amenities of the area.

3. The external finishes of the structure shall comprise a single muted colour, the details of which shall be agreed in writing with the planning authority before development recommences.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of Irish Water and the planning authority for such works and services. In this regard-

- (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
- (b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of environmental protection and public health

- 5. Vehicular access to the structure shall be via an existing permitted entrance to the farm complex off the R487, details shall be submitted to the Planning authority for their written agreement before development recommences.

Reason: In to ensure a proper standard of development.

- 6. The site development and construction works shall be carried out such a manner as to ensure that the adjoining road is kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

- 7. The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the residential amenities of adjacent dwellings.

Karla Mc Bride

Senior Planning Inspector

15th December 2015