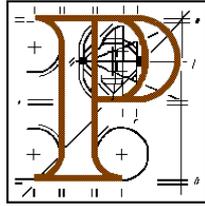


# An Bord Pleanála



## Inspector's Report

**PL 06F.245813**

**DEVELOPMENT:** Retention of storage shed to store materials incidental to the use of lands for keeping horses.

**LOCATION:** Belgee, Naul, Co. Dublin.

### PLANNING APPLICATION

**Planning Authority:** Fingal County Council.

**Planning Authority Reg. No:** F15A/0432

**Applicant:** Ken O'Carroll

**Application Type:** Permission

**Planning Authority Decision:** Refuse

### APPEAL

**Appellant:** Ken O'Carroll

**Type of Appeal:** First Party

**Observers:** None

**DATE OF SITE INSPECTION:** 27 January 2016

**INSPECTOR:** Patricia Calleary

## 1.0 SITE AND DEVELOPMENT DETAILS

### Site Location and Description

- 1.1 The appeal site is located in the townland of Belgee, c.4.5km south east of the Naul in north County Dublin. It has a stated site area of 1.56 hectares. It is broadly rectangular in shape with gently sloped topography at an elevated level in the wider landscape.
- 1.2 The site contains 2 no. structures, both which appear to have been recently erected. These include a timber chalet structure (the subject matter of a previous application and appeal) and a dark green clad steel frame shed (the subject matter of this appeal). Both structures are located to the south of the local road which fronts the subject site, along the western site boundary. Separately, there is also what appears to be a former single storey stable structure located to the north eastern corner of the site boundary, positioned at a lower local elevation. This former stable does not appear to be a recent construction.
- 1.3 Primary access to the site is through a set of solid timber gates which are c.2m high. The gates are flanked by c.2m high solid timber screen fencing on the east side. The access is served off a poorly aligned local road which is restricted in width and alignment. A speed limit of 80km/hr applies. The access leads to the 2 buildings inside the gate via a gravel driveway. On the day of my inspection, the gates were secured with a padlock and were monitored with visual surveillance equipment.
- 1.4 The site itself is grassland with evidence of good fertile soil. The boundaries comprise of mature hedgerows allowing limited views into the site when the gates are closed. There were no animals on site on the day of my inspection.
- 1.5 The adjoining lands are predominately characterised by agricultural use. The wider area has a rural character despite its proximity to the west of the M1, Naul, Swords and Dublin.

### Description of Proposed Development

- 1.6 Retention permission is sought for a storage shed. The shed is a simple form steel framed building with a dark green metal clad finish. It has a stated floor area of c.133.5 sq.m and has a ridge height of c.5.2m. The structure has a large door open on the front / north elevation and a small concrete apron area (c.9m<sup>2</sup>) laid out in front of this door. The development description and supporting documentation states that the storage shed will be used *“for the storage of materials incidental to the use of lands for keeping horses.”*
- 1.7 The application is accompanied by a letter from the applicant's agent and it states that the shed structure was erected in 2014, on the belief that it was exempted development within the meaning of the planning legislation. The agent states that there is no foul water or water supply associated with the

development and that all storm water will discharge into an existing soak pit on site.

## 2.0 PLANNING AUTHORITY DECISION

The Planning Authority issued a decision to refuse retention permission for the two stated reasons, summarised under:

1. *The development, by reason of its excessive scale, would seriously injure visual amenities and be incongruous within the predominately rural character of the area and would be contrary to Objective G139 which seeks to 'protect areas of high landscape quality'.*
2. *The site is located in an area zoned High Amenity 'HA' in the Fingal Development Plan 2011-2017 where it is an objective of the Planning Authority to 'protect and enhance high amenity area.*

## 3.0 PLANNING APPLICATION

3.1 The application was submitted to the Planning Authority on 16 September 2015. The pertinent points of the reports of the Planning Officer, Local Authority departmental officers and prescribed bodies are set out under:

### 3.2 Planning Officers Report:

- Sets out a description of the development and the site context, noting the 2 no. structures on site, i.e. the timber chalet and the shed structure.
- There is an adjoining house located proximate to the subject site.
- Zoning objective is 'HA', i.e. *'to protect and enhance high amenity area'* within the Fingal County Development Plan 2011-2017.
- Refers to planning history of refusals on site.
- No pre-planning consultation.
- No third party submissions received by the PA.
- No horses present on the land on date of site inspection.
- Previously observed by enforcement officer as accommodating a boat in the shed.
- Shed is not part of a wider agricultural land holding or working farm complex and is not considered to be used for agricultural purpose.
- Raises serious concerns regarding the design and excessive scale in the context of its location on High Amenity zoning and designation as a highly sensitive landscape. Notes the shed has been painted green but considers this does not overcome relevant concerns.
- **Refusal** is recommended for 2 reasons summarised as follows:

(1) excessive scale causing injury to visual amenity and contrary to objective G139 seeking protection of HA zoned lands.

(2) Contrary to HA zoning.

### 3.3 Interdepartmental Reports:

#### Planning & Strategic Infrastructure Department – Water Services Section

- Notes that Irish Water have no objection to the development.
- No objection on the issue of foul water subject to conditions.
- Considers there is insufficient information regarding surface water drainage and recommends **a request for further information**.

#### Planning & Strategic Infrastructure Department – Transportation

- Notes the road leading to a cul de sac, is lightly trafficked.
- Speed limit of 80km/hr and a road environment which is more a-kin to 50km/hr.
- **No objection** subject to conditions.

### 3.4 Prescribed bodies

#### Irish Water

- No objection and notes the requirement of a connection agreement.

### 3.5 Third Party Submissions

None

## 4.0 PLANNING HISTORY

### 4.1 Appeal Site:

**P.A. Reg. Ref. No. F15A/0236** (refers to the same shed)

Retention planning permission was previously **refused** for a development consisting of the retention of storage shed, to store materials incidental to the use of lands for keeping horses. The stated reasons of refusal read as follows:-

1. *The subject structure would, by reason of its excessive scale, its design and material finishes at this visually sensitive location seriously injure the amenities of the area and would be incongruous with the predominantly rural character of the area. This would be contrary to Objective G139 of the Fingal Development Plan 2011-2017 which seeks to 'protect areas of high landscape quality including Special Amenity Areas, High Amenity zoned lands, and Highly Sensitive Landscapes identified on the Development Plan Green Infrastructure Maps' and would be contrary to the proper planning and sustainable development of the area.*

2. *The site is located in an area zoned High Amenity 'HA' in the Fingal Development Plan 2011-2017 where it is an objective of the Planning Authority to 'protect and enhance high amenity areas'. The land use zoning also seeks to protect these highly sensitive and scenic locations from inappropriate development.*

*The applicant has not demonstrated a need for the subject structure at this sensitive rural location. Furthermore, the applicant has not demonstrated that the proposed structure is used for the purposes of agriculture. The proposed development would therefore contravene materially the high amenity development objective indicated in the Development Plan which seeks to 'protect and enhance high amenity areas' and as such would be contrary to the proper planning and sustainable development of the area."*

Note: The above application was not the subject of an appeal.

#### **PL06F.245286**

Retention planning permission was **refused** for a development consisting of the replacement timber cabin providing accommodation incidental to the use of lands for keeping horses. The stated reason of refusal read as follows:-

1. *The site is subject to a High Amenity zoning objective in the Fingal Development Plan 2011–2017, which seeks to "protect and enhance high amenity areas". Objective HA01 also seeks to protect these highly sensitive and scenic locations from inappropriate development and to reinforce their character, distinctiveness and sense of place. Having regard to the nature and scale of the development proposed to be retained, its elevated position in this rural landscape, its legible character as a two-storey swiss chalet style structure with first-floor front and rear balconies, and the proximity to a neighbouring residential property to the west, it is considered that the development would be out of keeping with the predominantly rural character of the area, would be visually incongruous in a designated high amenity landscape, and would result in overlooking and a diminution of privacy for adjoining residential property. The development proposed to be retained would seriously injure the visual amenities of its protected rural landscape setting and the residential amenity of property in the vicinity, would contravene the stated objectives of the Development Plan in respect of High Amenity Areas, and would, therefore, be contrary to the proper planning and development of the area.*

4.2 **In the vicinity:** No recent and/or relevant planning history.

## 5.0 PLANNING POLICY

### Local Planning Policy

- 5.1 The appeal site is governed by the policies and objectives contained within the Fingal Development Plan, 2011-2017.

### Zoning

- 5.2 Within this plan, the site is zoned 'HA' which seeks to “*protect and enhance high amenity areas*”.

The vision for such High Amenity areas seeks to:

*'protect these highly sensitive and scenic locations from inappropriate development and reinforce their character, distinctiveness and sense of place. In recognition of the amenity potential of these areas opportunities to increase public access will be explored'.*

### Objectives:

- 5.3 The following objectives are relevant:

#### Objective HA01

Protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.

#### Objective GI39

Protect areas of high landscape quality including Special Amenity Areas, High Amenity zoned lands, and Highly Sensitive Landscapes identified on the Development Plan Green Infrastructure Maps.

### Agriculture

- 5.4 The Council, through their development plan, recognises the strategic importance of agriculture and supports initiatives to promote agricultural employment. Agriculture employment is low within Fingal but it is recognised as being of local importance. The following objectives are stated:

#### Objective REO4

Support the maximum number of viable and suitably located farms within the County, and ensure that any new development does not irreversibly harm the commercial viability of existing agricultural or horticultural land.

#### Objective REO5

Require a Visual Impact Statement where an application is lodged for agricultural buildings in areas which have a HA zoning objective.

## **Use Classes**

- 5.5 The Development Plan sets out use classes related to specific zoning objectives. The types of buildings which are permitted in principle and those which are not permitted are listed under the respective zoning categories. Unlike other zoning categories, agricultural buildings are not listed in either the 'permitted' or 'not permitted' category under 'HA' zoning. The plan sets out that where uses are not specifically listed, they should be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.

## **6.0 GROUNDS OF APPEAL**

### **6.1 First Party Appeal**

The grounds of the first party appeal submitted by Fingal Planning consultants can be summarised as follows:

- The agricultural shed structure was erected in 2014 and the applicant considered it was exempted development under the Planning legislation.
- Refers to previous refusal (F15A/0236) and states that the shed was since painted a dark green colour. Photographs of the shed with its previous grey colour and its current dark green colour are included. Considers this new colour reduces the visual impact.
- States that there are numerous similar sheds and other developments in the area and throughout Fingal located on lands zoned high amenity and lists 6 examples.
- Re-states that the use of the shed is for storage of materials incidental to the use of lands for keeping horses. A photo of the shed internally and horses grazing on the site are enclosed.
- States willingness to accept planning condition limiting the use of the shed for agricultural storage.

### **6.2 Planning Authority Response to Grounds of Appeal**

The Planning Authority's response re-states the 2 no. reasons for refusal and requests the Board to uphold the decision of the Planning Authority.

### **6.3 Observers**

None

## 7.0 ASSESSMENT

7.1 I have examined the documents on file, inspected the site and environs and considered relevant planning policy. The following assessment covers the points made in the appeal submission and also encapsulates my *de novo* consideration of the application. I consider that the key issues in this appeal case are as follows:

1. Principle of the Development
2. Visual Impact
3. Residential Amenity
4. Traffic and Road Access
5. Drainage
6. Other Matters

I deal with these issues as set out under the respective headings. At the outset, I note that the application is made for retention permission for development. In accordance with the Development Management Guidelines for Planning Authorities, 2007, my assessment of this appeal is dealt with in the same way as if the development were proposed.

### Principle of the Development

7.2 The main planning consideration in this case is whether or not the principle of the development, in the context of relevant planning policy, is acceptable at its location within a highly sensitive landscape. The development description for the application states that the shed is for agricultural storage, i.e. *'to store materials incidental to the use of lands for keeping horses'*. Should this be the case, the development would fall within an agriculture use category and my assessment would be made on that basis. Under Objective RE04, the Development plan is supportive of viable and suitably located farms and of ensuring that new development does not irreversibly harm the commercial viability of agricultural lands.

7.3 However, no objective evidence has been submitted with the planning application or appeal which would endorse the stated agricultural use. I do not consider a single photograph of 2 horses on the site on a particular day as sufficient evidence, particularly when no horses were present on the site on the day of the inspection by the Planning Authority or on the day of my inspection. A Herd Number or other Business Number which is allocated by the Department of Agriculture, Food and the Marine did not accompany the application. The proposed shed is clearly not part of a wider agricultural landholding or working farm complex. The photograph of the internal arrangement of the shed, as submitted with the appeal, shows a number of stored items, most which do not relate to the keeping of horses in the agricultural sense. From what I can discern in the photo, I note the presence of 2 lawn mowers, bicycles, gym equipment, a trailer, a boat and also a small single horse trailer stored in the shed. Apart from the small horse trailer, I

consider most of these items have little or no relevance for the keeping of horses.

- 7.4 In the absence of documentary evidence, I am unconvinced that the building is associated with agricultural activity. The applicant has not sufficiently demonstrated that the proposed structure is used or intended to be used for agricultural purposes. The applicant has not provided an agricultural based need for the proposed structure at this highly sensitive location. While I am cognisant that the public notices imply the use of the building is agricultural related, the documentary and visual evidence do not support the stated use. I also note that the applicant is willing to have a condition attached limiting the use of the shed for the purpose of agricultural storage. However, I consider that this type of condition would be difficult to enforce, and would not resolve the wider principle of the development. Therefore, in the absence of clear evidence, and having the precautionary principle in mind, I conclude that the development is non-agricultural related and must be assessed as so.
- 7.5 The applicable Fingal County Development Plan contains strict policy in relation to protecting high amenity areas from inappropriate development under specific Objectives HA01 and G139. These objectives serve to protect and reinforce the character of lands located in areas of high landscape quality, including High Amenity zoned lands within which the subject shed development is located. The development of a steel framed shed for non-agricultural use would materially contravene the high amenity development objectives set out in the Development Plan which seeks to *'protect and enhance high amenity areas'*. I do not consider that the shed either protects or enhances the high amenity area. I must therefore conclude that the development should not be permitted as it would be contrary to objectives HA01 and G139 of the Fingal Development Plan. It would also arguably establish a poor planning precedent for similar non-agriculture related structures in this area which cumulatively have the potential to further erode the special and distinctive attributes of this high amenity zoned land.

### **Visual Impact**

- 7.6 I firstly note that no Visual Impact Assessment has been submitted with the application as is required for agriculture buildings in areas which have a 'HA' zoning objective, a requirement set out under Objective RE05. However, having reviewed the drawings and documents on the planning file and visited the site and surrounding area, I consider the scale of the development is modest and it is well screened from public views. The dark green colour serves well in assimilating it into the landscape against the backdrop of mature hedgerow boundaries. I consider that the shed structure itself is not visually obtrusive on the landscape.
- 7.7 I have formed a different view on the modified site entrance. I consider that the high solid timber gates flanked by a timber wall on its eastern side, pose an interruption to the natural hedgerows and the entrance is not typical of traditional rural farm entrances. The gates and screening are incongruous and inappropriate in their rural landscape setting. I consider that this modified gated entrance aspect of the development gives rise to an unacceptable

visual impact on the landscape. This would be contrary to Objective G139 of the Fingal Development Plan 2011-2017, which seeks to protect High Amenity areas. Accordingly be contrary to proper planning and sustainable development.

### **Residential Amenity**

- 7.8 The subject site is very well screened along the public road to its North and also along the Western boundary. The shed structure is modest in scale and size. There are no window openings on the structure and because of the nature of the development for non-residential use, I do not consider that the development, if permitted, would diminish the established residential amenity of the adjoining residential property to the West, in particular by way of overlooking or reduced privacy.

### **Traffic and Road Access**

- 7.9 The road fronting the appeal site is a 3m narrow carriageway and it is very lightly trafficked. It reaches a cul de sac at the eastern end of the site, a short distance away. On the day of my site inspection, no vehicular traffic passed. The road environment is such that the likely speed of vehicular road users would not be greater than 50 km/hr. 2 cars could not pass each other and overtaking would not be possible. The Transportation Planning Section of the Local Authority considered the visibility of 50m to the east and 45m to the west as being broadly acceptable subject to minor improvements which they recommended as conditions. I concur fully with their assessment in the context of the physical road environment and the development proposed to retain.
- 7.10 I am of the opinion, that due to the modest scale and nature of the development and the likely minor traffic movements associated with it, the development would not generate an unacceptable traffic hazard.

### **Drainage**

- 7.11 No foul effluent is proposed to be generated with the development. No toilet facility, sinks or floor drainage are shown on any of the planning drawings. Therefore, I consider that no foul drainage issues arise.
- 7.12 In relation to surface water, no design details or calculations have been submitted with the application. The applicant states in his cover letter, that the storm water will discharge into an existing soak pit on site and the location of the soakpit is indicated on the site layout drawing. I note that the Water Services Section of the Local Authority were not satisfied with the level of information submitted. On the day of my site inspection in winter conditions, I noted the ground conditions on site were reasonably dry and firm underfoot. Based on a visual inspection, lack of water ponding evidenced on site and

because of the availability of sufficient land for a soakway, I consider that the surface water can be adequately disposed on site.

### **Other Matters**

- 7.13 The site is located c.11km south of Nanny Estuary and Shore SPA (Site Code 004158), c.10km North of Rogerstown Estuary SAC (Site Code 000208) and SPA (Site Code 004015) and c.10km East of Skerries Island SPA (Site Code 004122). Having regard to the nature and scale of the proposed development and the distance to the nearest European sites, I am of the view that no **appropriate assessment** issues arise, and that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 CONCLUSIONS AND RECOMMENDATION**

I recommend that the proposed development be **refused** retention permission based on the reasons and considerations set out below.

### **REASONS AND CONSIDERATIONS**

1. The site is located in an area of high landscape value where a High Amenity Zoning (HA) objective has been applied in the Fingal Development Plan 2011–2017, which seeks to “protect and enhance high amenity areas”. Objectives HA01 and G139 also seeks to protect these highly sensitive and scenic locations from inappropriate development and to reinforce their character, distinctiveness and sense of place. The applicant has not sufficiently demonstrated an agricultural based need for the proposed development at this sensitive rural location. Furthermore, the applicant has not demonstrated that the proposed structure is used for agricultural purposes. In the absence of a demonstrated need for the structure and evidence of agriculture use, within its protected landscape setting, it is considered that the development proposed to be retained, would contravene the stated objectives of the Fingal County Development Plan in respect of High Amenity Areas and would therefore be inappropriate. Accordingly, the development would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the modified entrance serving the development is out of keeping with the predominantly rural character of the area, is visually incongruous in a designated high amenity landscape and if

permitted, would seriously injure the visual amenities of its protected rural landscape setting. Accordingly, this aspect of the development proposed to be retained, would contravene the stated objectives of the Development Plan in respect of High Amenity Areas, and would, therefore, be contrary to the proper planning and development of the area.

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Patricia Calleary  
**Senior Planning Inspector**  
05 February 2016