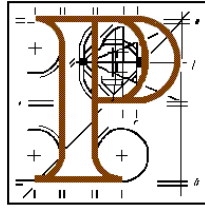


# An Bord Pleanála



## Inspector's Report

PL18.246193

### **DEVELOPMENT:**

(1) *Permission for Retention for the following works:* A partially completed greenhouse structure, security fencing to front boundary, retaining walls to perimeter of site, concrete yard area, and (2) *Permission for the following works:* The conversion of existing concrete yard area into recreation area comprising of basketball court and tennis court ancillary to the use of the applicants' dwellinghouse, completion of greenhouse structure, mounded planting, additional landscaping to site and all associated site development works,  
at Cavanageeragh, Carrickmacross, County Monaghan.

### **PLANNING APPLICATION**

<b>Planning Authority:</b>	<b>Monaghan County Council</b>
<b>Planning Authority Reg. No.:</b>	15/449
<b>Applicants:</b>	Martin and Patricia Mee
<b>Application Type:</b>	Permission for Retention/Permission
<b>Planning Authority Decision:</b>	<b>GRANT PERMISSION</b> subject to 7 Conditions

### **APPEAL**

<b>Appellants:</b>	Pat and Terry O'Leary
<b>Type of Appeal:</b>	<b>THIRD PARTY</b>
<b>Observers:</b>	None
<b>DATE OF SITE INSPECTION:</b>	13 <sup>th</sup> May 2016
<b>INSPECTOR:</b>	Dermot Kelly

## 1. SITE LOCATION

The subject site is located at Cavanageeragh, Carrickmacross, County Monaghan, as indicated on **APPENDIX A - LOCATION MAP**.

## 2. SITE DESCRIPTION

2.1 The subject site lands are approximately 0.27 hectares in area and are located in a rural area approximately 2 kilometres to the north-west of Carrickmacross in County Monaghan.

2.2 The Planning Report for the Planning Authority described the site: 'The site consists of an existing concrete yard area associated with a detached dwellinghouse and garden located off a local primary road in the townland of Cavanageeragh. To the south of the site there is a yard area and associated storage shed.

The area has been subject to pressure for one-off housing development, as evident in the prevailing pattern of development in the vicinity of the site. There is a recessed entrance to the yard area in situ. The road frontage is defined by green palisade fencing, the front of which is planted with an evergreen hedgerow 1 metre high (north-west of entrance) and 2 metre high (south-west of entrance). There is a palisade gate to the site entrance. A concrete retaining wall defines the northern and eastern site boundaries. There are 4 no. storage containers on the site at present.'

2.3 The attached Photographs in **APPENDIX B – PHOTOGRAPHS** (including Key Plan which indicates the approximate Photograph locations) illustrate the nature of the subject site and its context.

## 3. PROPOSED DEVELOPMENT

### Planning Application

- The proposed development comprises as follows: (1) *Permission for Retention for the following works: A partially completed greenhouse structure, security fencing to front boundary, retaining walls to perimeter of site, concrete yard area, and* (2) *Permission for the following works: The conversion of existing concrete yard area into recreation area comprising of basketball court and tennis court ancillary to the use of the applicants' dwellinghouse, completion of*

greenhouse structure, mounded planting, additional landscaping to site and all associated site development works, at Cavanageeragh, Carrickmacross, County Monaghan.

- The submitted Planning Report for the Applicant noted that ‘the greenhouse is modest in its scale and form and having regard to its location has no visual impact outside the site’, and also ‘The yard area to be retained is proposed to be used as a basketball court and tennis court for use by the Mee family. The proposed use is ancillary to the domestic use of the house and is compatible with the neighbouring uses. Having regard to the fact that the yard area is in situ, it is reasonable that some other alternative use which is compatible with the residential use of the house be accommodated on the yard rather than seeing the concrete yard go to waste. Having regard to the proposed landscaping plan and to the topography of the site and surrounding area, the proposed tennis court and basketball court would not have a significant visual impact on the surrounding area.’
- The Planning Report for the Applicant submitted in regard to the ‘Boundary Fencing and Retaining Wall’ as follows: ‘For the purposes of this application, the applicants have engaged a landscape architect to prepare a comprehensive landscaping plan for the application site, which would provide for effective screening of the development in order to further reduce the visual impact and to aid in the absorption of the proposed tennis court and basketball court..... The planting which has already been put in place along the fencing will provide a level of screening for the site and the removal of the gate and its replacement with planting as proposed in the landscape plan will provide high quality screening for the site.’

#### **4. NOTIFICATION OF DECISION OF PLANNING AUTHORITY - Submissions and Relevant Reports**

##### **4.1 Third Party Submission on Planning Application**

The Submission received is noted and included documenting the Planning History of the subject site. Objections in regard to the proposed development are reiterated in the Third Party Appeal Grounds. The proposed development was considered in the context of the stated provisions in the Development Plan.

## 4.2 Area Engineer's Report

This report, dated 7<sup>th</sup> January, 2016 stated that there was no objection to the proposed development subject to Conditions as specified.

## 4.3 Planning Report for Planning Authority

- The Planning Report, dated 27<sup>th</sup> January, 2016 included a Site Description and summarised the Third Party Submission received. Under 'Assessment' was stated as follows:  
'Given that the principal reason for refusal has been removed by reason of the closure of the commercial engineering operation on this site, the critical remaining issue is the satisfactory resolution of outstanding visual concerns. To this end the applicant proposes a number of different elements:
  - The provision of a tennis court and basketball court in the former yard area – the proposed use is associated with and ancillary to an established dwelling and as such there are no concerns in relation to this aspect. A condition shall be imposed on any subsequent grant to ensure the courts are used for domestic use relating to the enjoyment of the dwelling only.
  - It is proposed to implement an extensive landscaping plan details of which are summarised below. With time this landscaping will adequately screen the 'commercial' type retaining wall structures to an acceptable degree and will improve the overall visual amenity of the site. It is important to note that views into the site are fairly limited.
  - It is proposed to remove the existing recessed entrance and associated concrete hardstanding by covering it over with topsoil and returning this to grass as per the established pattern of development in the vicinity. It is also proposed to remove the security gate and set back the fence line to allow for implementation of the landscaping plan. It is considered that these works will provide for the satisfactory reinstatement of the site and the removal of the 'commercial' appearance to an acceptable degree.'
- The submitted Landscaping Plan included 'a new double staggered row of native hedgerow to be planted around concrete wall' along the northern and eastern site boundaries; semi-mature tree planting; 'a mini-orchard' in the north-eastern corner of the site and

‘a mounded area totalling approximately 500 square metres planted along western and south-western (roadside) boundaries’.  
Permission was recommended subject to the Conditions as stated in the notification of decision of the Planning Authority.

#### 4.4 Notification of Decision of Planning Authority

The Planning Authority, Monaghan County Council, issued a notification of decision to **GRANT PERMISSION** for the proposed development subject to 7 Conditions including as follows:

2. The storage containers on site (delineated on the site layout plan dated 25/11/15) shall be permanently removed from this site within one month of this grant of permission.

Reason: In the interest of visual amenity and to prevent unauthorised development.

3. (a) The existing green palisade gate shall be permanently removed and replaced with planting as specified on the plans, specifications and details submitted to the planning authority on the 25/11/15.

- (b) The gate shall be removed within 2 months of this grant of permission.

Reason: In the interest of visual amenity.

4. The proposed tennis and basketball courts hereby permitted shall be for domestic use associated with the adjoining residential dwelling only, and shall not be used for any other purpose.

Reason: In the interest of residential amenity and to prevent unauthorised development.

5. No additional fencing and/or lighting shall be erected within the site (other than works considered exempt in accordance with the Planning and Development Regulations 2001).

Reason: In the interest of the protection of residential amenity.

6. (a) Landscaping shall be carried out in strict conformity with the landscaping plan carried out by Silverstream Landscapes and submitted on the 25/12/15.

- (b) Landscaping shall be implemented in the next planting season following this grant of permission.

- (c) Landscaping shall be permanently retained in this development and protected from damage at all times. Any plant which fails shall be replaced.

Reason: In the interest of visual amenity and to provide a satisfactory standard of development.

## 5. APPEAL GROUNDS

### Third Party Appeal

- The Third Party Appeal Grounds included stating under 'Grounds of Appeal' as follows:
  1. The visual impact is industrial in nature, is unsuitable at this location and is at odds with the preservation of the amenities of a rural residential area.
  2. The development of concrete retaining walls is contrary to the protection of the rural environment.
  3. The proposed development has a significant and detrimental visual impact on the surrounding area when viewed from the public roads.
  4. The planning application fails to address development imperative to and associated with the recreational facilities for which planning permission has been sought including lighting and the construction of fencing around the courts.
  5. The landscaping plan focusses on mitigating the visual impact from within the site but fails to address the visual impact of the concrete retaining walls and security fencing from the roads outside the site.
  6. The development in its current form, for which retention is sought, is contrary to the policies, strategic aims, and objectives of the Monaghan County Development Plan 2013-2019.'
- The Planning History of the subject site was documented as also Section 2.1, Section 4.4, Policy LP 3, Policy RDP 6, Policy LSP 1, Policy LSP 3 and Policy LSP 5 of the Development Plan.

'It is submitted that the current proposal, the subject of this application is completely at odds with the rural environment within which it is situated and as such we would refer the Planning Authority to the statement in Section 15.4 of the Monaghan County Development Plan 2013-2019 where it is stated that:

*It is essential that any new dwelling reflects the traditional form of development in the countryside and does not attempt to impose alien or urban standards in the rural environment.*

The same must hold true for any new development within the curtilage of an existing house. The current proposal seeks to impose alien standards in the rural environment through this application to retain an industrial scale development in a rural residential enclave.'

- Under 'Grounds of Appeal' the submissions included:  
 'Of first importance in determining this retention application is that no permission has been granted for the retention of the concrete yard area, no permission has been granted for the removal of the indigenous hedgerows and their replacement with unsightly and alien concrete retaining walls, and no permission has been granted for the retention of the security fencing.  
 As such this planning application must be assessed as if these elements of the site do not exist and the question asked: would permission be granted for this development, at this rural location, were an application to have been made for their construction?', and
- 'Having inspected the rural area around the application site we would argue that permission would not have been granted for this form of development were a planning application made to the Council in the first instance.  
 It would appear to be the case that the recreational elements of this development have been applied for simply as a method of justifying the retention of the unauthorised development which has already been carried out on the site.'
- The 'Grounds of Appeal' were set out in further detail including:  
 'The result of this significant concrete intervention, which was undertaken as part of the unauthorised commercialisation of the appeal site, for which retention permission was refused (P.A. Reg. Ref. 14/219) is that the area to the North of the first party dwelling, beyond the large garage structure, visually resembles an exposed industrial site within a rural landscape.', and also
- *'The proposed development has a significant and detrimental visual impact on the surrounding area when viewed from the public roads. Contrary to the statement in the Planner's Report that:  
 A comprehensive landscaping scheme is proposed to ameliorate the impacts of this concrete structure. A very significant level of planting and mounding is proposed which includes a double staggered hedgerow, interspersed with semi-mature trees at intervals along the north and east (see landscaping plan). It is considered that this will largely ameliorate the visual impact of the concrete retaining wall to the site perimeter,*  
 the landscaping plan which we have seen only provides for planting inside the boundary of the site, defined by the retaining wall. This planting will in no way ameliorate the visual impact of this extensive concrete retaining wall from the public realm.'

- ‘Granting permission for courts without fencing to stop and catch tennis and basketballs, in a location in close proximity to third party boundaries and the public road, would be contrary to the protection of third party amenities and traffic safety.

The Monaghan County Council Engineer’s Report of the 7<sup>th</sup> January, 2016 supports our contention in respect of the provision of suitable fencing to stop tennis and basketballs from entering the public road. Similar arrangements would need to be made to protect third party properties.

Moreover, were our clients of the opinion that this application was anything other than an attempt to retain the unsightly industrial concrete area to the front of the existing garage, they would highlight that such playing courts would be likely the subject of a future application for floodlighting to enable evening play in autumn, winter and early spring.’

## **6. APPEAL RESPONSES**

### **6.1 Applicants’ Appeal Response**

- This Appeal Response received 22<sup>nd</sup> March, 2015 included documenting the Planning History of the subject site and stated:

‘The commercial use of the yard and shed therefore ceased when permission was refused in 2014. The yard has remained clear since and the Mee family are now seeking to utilise it for domestic purposes – i.e. a recreational area for their family comprising tennis/basketball court area.

Given that the yard is already in place and is directly adjacent the family home, this is considered a reasonable and sustainable use of this space as opposed to removing it (to C&D landfill). In tandem with the completion of the glasshouse, these facilities will provide additional amenity to the Mee family.’, and

- ‘An application for retention shall confer neither advantage nor disadvantage on the applicant, but due regard must be had to the fact that the subject structures are in situ.

Planning permission is not required for the removal of hedgerows in this instance. The northern boundary previously consisted of large, non-native evergreen trees, not hedgerows in any event. These trees were blocking light into the next door neighbours’ property. By mutual consent, it was agreed to remove these. Due to the significant difference in site levels between the applicants’



site and the neighbours' gardens, a retaining wall was also required to be built, again by mutual consent.

On the western boundary, the previous hedgerow has been replaced by significant planting which is fast growing thereby ensuring robust natural screening is established.', and also

- *'The proposed development has a significant and detrimental visual impact on the surrounding area when viewed from the public roads. We disagree with this unsubstantiated opinion and refer the Board again to attached views taken from adjoining public roads. The concrete area proposed for recreational use has of itself no visual presence outside the site. The adjoining hardcore area is proposed to be replaced with a densely planted landscaped area, which will further help to absorb the proposal visually into the adjoining rural landscape. The existing boundary fencing will be screened by an additional fast growing hedgerow as is already planted.'*, and *'The appellant is equating the proposed domestic recreational use with a commercial recreational use in which additional structures such as lighting and formal fencing between courts would be common. None of these features is proposed nor are they imperative to a domestic recreational situation. It is not intended to use this court area at night by the family, partly out of respect for neighbours. Therefore, lighting is not required.'*
- Detailed submissions following relating to Section 2.1, Section 4.4, Policy LP 3, Policy RDP 6, Policy LSP 1, Policy LSP 3, Policy LSP 5 and Section 15.4 in the 2013-2019 Monaghan County Development Plan including as follows: *'Re Policy LSP 3 – Contrary to the third party's suggestion, the removal of roadside boundaries do not require planning permission. The security fencing in place will be completely screened from public view when the existing hedgerow has matured. Re LSP 5 – As outlined above the concrete retaining wall on the northern boundary is not visible from the public road due to the topography of the area and its location in the rear gardens of several properties. The retaining wall on the eastern boundary and the security fencing will be fully screened when the proposed landscaping has been implemented in full. The reference to Section 15.4 of the Development Plan is not relevant as it relates to new dwellings and the appellants' reference to the development being of an industrial scale is unfounded as the proposed use is for a rural recreational amenity ancillary to a rural house.'*

## **6.2 Appeal Observation**

No Appeal Observation was received.

## **6.3 Planning Authority Appeal Response**

No Appeal Response was received.

## **7. PLANNING HISTORY**

The Third Party Appeal Grounds documented the Planning History of the subject site as follows:

*'P.A. Reg. Ref. 14/219 – Retention of yard area used for the storage of equipment and machinery, 2.4 high palisade fencing to the roadside boundary, retaining perimeter walls to the northern, southern and eastern boundaries, 2 no. storage containers and new vehicular entrance to the yard and all associated site development works at Cavanageerah, Carrickmacross, County Monaghan.*

Permission refused for 3 no. reasons:

1. The development is located in a rural area outside the boundary of any settlement. The applicant has failed to establish that there are no alternative sites within the boundaries of a nearby settlement or established employment area, which are available, and which can satisfy the planning authority that it is necessary for the development to be located in the countryside.

As such the development is contrary to the provisions of Policies CDP 2 and INP 4 of the Monaghan County Development Plan 2013-2019 and as such would be contrary to the proper planning and sustainable development of the area.

2. The development is located in a rural area in close proximity to a number of existing residential properties. The development, due to its scale and nature, will detrimentally impact on the residential amenity of adjoining properties by reason of noise and general disturbance.

As such the development is contrary to the provisions of Policies INP 3 and INP 4 of the Monaghan County Development Plan 2013-2019 and as such would be contrary to the proper planning and sustainable development of the area.

3. The development is located in a rural area predominantly characterised by detached residential properties and agricultural development. The proposal, by reason of its scale and nature will harm the character of the countryside.

As such the development is contrary to the provisions of Policies CDP 2, INP 3 and INP 4 of the Monaghan County Development Plan 2013-2019 and as such would be contrary to the proper planning and sustainable development of the area.

*P.A. Reg. Ref. 05/424* – It would appear from our study of the planning file that retention permission was granted on the application site for a domestic garage and hardstanding associated with same under Planning Reg. Ref. 05/424.

*P.A. Reg. Ref. 96/478*

Prior to the above retention planning application, the original planning application for the site is P.A. Reg. Ref. 96/378 where the applicant was granted planning permission to erect dormer/two-storey dwelling.'

## **8. DEVELOPMENT PLAN**

The provisions of the 2013-2019 Monaghan County Development Plan have been considered, including the provisions as referred to in the Third Party Appeal Grounds.

## **9. PLANNING ASSESSMENT – Issues and Evaluation**

Having regard to the above and having inspected the site and having reviewed all documents on file, the following is my assessment of this case where the major planning issues for consideration are as follows:

### **Proposed Development and Third Party Appeal Grounds**

- The Planning Report for the Planning Authority described the site:  
‘The site consists of an existing concrete yard area associated with a detached dwellinghouse and garden located off a local primary road in the townland of Cavanageeragh. To the south of the site there is a yard area and associated storage shed.  
The area has been subject to pressure for one-off housing development, as evident in the prevailing pattern of development in the vicinity of the site. There is a recessed entrance to the yard area in situ. The road frontage is defined by green palisade fencing, the front of which is planted with an evergreen hedgerow 1 metre high (north-west of entrance) and 2 metre high (south-west of entrance). There is a palisade gate to the site entrance. A concrete retaining wall defines the northern and eastern site

boundaries. There are 4 no. storage containers on the site at present.'

- The proposed development comprises as follows: (1) *Permission for Retention for the following works:* A partially completed greenhouse structure, security fencing to front boundary, retaining walls to perimeter of site, concrete yard area, and (2) *Permission for the following works:* The conversion of existing concrete yard area into recreation area comprising of basketball court and tennis court ancillary to the use of the applicants' dwellinghouse, completion of greenhouse structure, mounded planting, additional landscaping to site and all associated site development works, at Cavanageeragh, Carrickmacross, County Monaghan.
- The submitted Planning Report for the Applicant noted that 'The greenhouse is modest in its scale and form and having regard to its location has no visual impact outside the site', and also 'The yard area to be retained is proposed to be used as a basketball court and tennis court for use by the Mee family. The proposed use is ancillary to the domestic use of the house and is compatible with the neighbouring uses. Having regard to the fact that the yard area is in situ, it is reasonable that some other alternative use which is compatible with the residential use of the house be accommodated on the yard rather than seeing the concrete yard go to waste. Having regard to the proposed landscaping plan and to the topography of the site and surrounding area, the proposed tennis court and basketball court would not have a significant visual impact on the surrounding area.'
- The Planning Report for the Applicant submitted in regard to the 'Boundary Fencing and Retaining Wall' as follows: 'For the purposes of this application, the applicants have engaged a landscape architect to prepare a comprehensive landscaping plan for the application site, which would provide for effective screening of the development in order to further reduce the visual impact and to aid in the absorption of the proposed tennis court and basketball court..... The planting which has already been put in place along the fencing will provide a level of screening for the site and the removal of the gate and its replacement with planting as proposed in the landscape plan will provide high quality screening for the site.'

- The *Planning Report for the Planning Authority* under ‘Assessment’ included stating as follows:  
*‘Given that the principal reason for refusal has been removed by reason of the closure of the commercial engineering operation on this site, the critical remaining issue is the satisfactory resolution of outstanding visual concerns. To this end the applicant proposes a number of different elements:*
  - The provision of a tennis court and basketball court in the former yard area – the proposed use is associated with and ancillary to an established dwelling and as such there are no concerns in relation to this aspect..... *A condition shall be imposed on any subsequent grant to ensure the courts are used for domestic use relating to the enjoyment of the dwelling only.*
  - *It is proposed to implement an extensive landscaping plan details of which are summarised below. With time this landscaping will adequately screen the ‘commercial’ type retaining wall structures to an acceptable degree and will improve the overall visual amenity of the site. It is important to note that views into the site are fairly limited.*
  - *It is proposed to remove the existing recessed entrance and associated concrete hardstanding by covering it over with topsoil and returning this to grass as per the established pattern of development in the vicinity. It is also proposed to remove the security gate and set back the fence line to allow for implementation of the landscaping plan. It is considered that these works will provide for the satisfactory reinstatement of the site and the removal of the ‘commercial’ appearance to an acceptable degree.’* *(Italics added)*
  
- The submitted Landscaping Plan included ‘a new double staggered row of native hedgerow to be planted around concrete wall’ along the northern and eastern site boundaries; semi-mature tree planting; ‘a mini-orchard’ in the north-eastern corner of the site and ‘a mounded area totalling approximately 500 square metres planted along western and south-western (roadside) boundaries’.  
 Permission was recommended subject to the Conditions as stated in the notification of decision of the Planning Authority.
  
- The *Third Party Appeal Grounds* stated under ‘Grounds of Appeal’:  
*‘1. The visual impact is industrial in nature, is unsuitable at this location and is at odds with the preservation of the amenities of a rural residential area.*

2. The development of concrete retaining walls is contrary to the protection of the rural environment.
  3. The proposed development has a significant and detrimental visual impact on the surrounding area when viewed from the public roads.
  4. The planning application fails to address development imperative to and associated with the recreational facilities for which planning permission has been sought including lighting and the construction of fencing around the courts.
  5. *The landscaping plan focusses on mitigating the visual impact from within the site but fails to address the visual impact of the concrete retaining walls and security fencing from the roads outside the site.*
  6. The development in its current form, for which retention is sought, is contrary to the policies, strategic aims, and objectives of the Monaghan County Development Plan 2013-2019.’ (+ Italics)
- I note also the extensive and detailed Appeal Grounds as submitted including where stated that *‘the current proposal seeks to impose alien standards in the rural environment through this application to retain an industrial scale development in a rural residential enclave’*. However in my opinion – and on this matter I fully concur with the Planning Authority – the proposed development if undertaken in accordance with the detailed specifications in the submitted Landscaping Plan, would improve the visual and residential amenities of the area, and the application – as specified in the public notices – cannot be considered as an application *‘to retain an industrial scale development in a rural residential enclave’*.
  - I note also the Appeal Grounds submission that *‘it would appear to be the case that the recreational elements of this development has been applied for simply as a method of justifying the retention of the unauthorised development which has already been carried out on the site’*. However the proposed development in providing recreational facilities for the adjoining dwelling and in undertaking significant improvements to the visual appearance of the subject site, does not include provision for ‘the retention of the unauthorised development’ as submitted in the Appeal Grounds.
  - In my opinion the proposed development would satisfactorily address *‘the unauthorised commercialisation of the appeal site’* i.e. the former use now ceased of the yard area for the storage of

equipment and machinery and associated development (Ref. P.A. Reg. Ref. 14/219) as set out in the Appeal Grounds as follows:

'The result of this significant concrete intervention, which was undertaken as part of the unauthorised commercialisation of the appeal site, for which retention permission was refused (P.A. Reg. Ref. 14/219) is that the area to the North of the first party dwelling, beyond the large garage structure, visually resembles an exposed industrial site within a rural landscape.'

- Further to site inspection, see Photographs in Appendix B of this report, I concur with the Appeal Grounds that the subject site as existing including the large concreted yard and the adjacent '*large garage structure*' – which as elevated is widely visible from the public road to the north – could indeed be considered to '*visually resemble an exposed industrial site within a rural landscape*' as submitted.
- However in this regard I do not concur with the Appeal Grounds submissions that the proposed development would not ameliorate the visual impact of these lands when viewed from the public realm, and I concur with the Planning Report for the Planning Authority where stated: '*A comprehensive landscaping scheme is proposed to ameliorate the impacts of this concrete structure. A very significant level of planting and mounding is proposed which includes a double staggered hedgerow, interspersed with semi-mature trees at intervals along the north and east (see landscaping plan). It is considered that this will largely ameliorate the visual impact of the concrete retaining wall to the site perimeter.*'
- However further to site inspection, I note the 'Existing Storage Building' as specified on the submitted Site Layout Plan, scale 1:500, received by the Planning Authority in regard to the previous planning application (Reg. Ref. 14/219) which is also indicated on the submitted drawings as received with the present planning application where this 'Existing Storage Building' as specified is fronted by an 'Existing Concrete Yard' as specified, and which Storage Building and Concrete Yard are in the Applicants' ownership as indicated on the submitted drawings.
- In the context of the planning history of these lands including the unauthorised commercial development thereon which was the subject of the previous decision of the Planning Authority (Reg. Ref. 14/219) to refuse permission, and the Third Party Appeal Grounds Submissions in regard to continuance of unauthorised

development on these lands, I recommend that a Condition be included in any grant of permission for the proposed development specifying that this Existing Storage Building and adjoining Existing Concrete Yard shall be used for domestic use only ancillary to the Applicants' existing dwelling adjacent to the south.

- I note the Appeal Grounds submissions in regard to the desirability of perimeter fencing around the proposed basketball court and tennis court in the context of the adjacent residential properties and public road and with reference to the requirement in the Area Engineer's Report for the Planning Authority: '2. The fence proposed must be erected in a way to stop any projectiles from the tennis and basketball court from entering the public road'. However in my opinion such a requirement is not necessary for the proposed domestic-use recreational facilities noting the locations of the two courts within the site and the proposed landscaping along the site boundaries. The other requirements in the Area Engineer's Report are also not considered necessary or desirable by reason of the limited nature of the proposed development comprising landscaping works and proposed recreational facilities for domestic use on these lands.
- I consider that the Planning Authority has addressed by means of Condition No. 5 in the notification of decision, the Third Party Appeal concerns in regard to potential floodlighting and additional fencing of the proposed recreational facilities for domestic use on the subject site. I recommend that permission/permission for retention be granted for the proposed development in accordance with the Conditions as set out hereunder.
- *Appropriate Assessment*  
Having regard to the location of the subject site and to the nature and scale of the proposed development, I consider that no Appropriate Assessment issues arise in this case. It is not considered that the proposed development either individually or in combination with other plans or projects, would be likely to have a significant effect on a European Site.



## **10. CONCLUSIONS AND RECOMMENDATION**

In conclusion, further to the above assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal, and including the site inspection, I consider that the proposed development/proposed development to be retained would be in accordance with the proper planning and sustainable development of the area having regard to the relevant provisions of the 2013-2019 Monaghan County Development Plan which are considered reasonable, and I recommend that permission be granted for the proposed development/proposed development to be retained for the stated Reasons and Considerations in the First Schedule and subject to the Conditions as stated in the Second Schedule below.

### **DECISION**

GRANT permission for the proposed development/proposed development to be retained in accordance with the said plans and particulars based on the Reasons and Considerations hereunder and subject to the Conditions set out below.

### **REASONS AND CONSIDERATIONS**

Having regard to the pattern of development in the area, and having regard in particular to the detailed landscaping proposals in the submitted Landscaping Plan and the proposed recreational facilities for domestic use associated with the Applicants' adjacent dwelling such as to result in a significant visual improvement of the subject site lands, it is considered that, subject to compliance with the Conditions in the Second Schedule, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be carried out and completed in accordance with the submitted drawings, 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. All storage containers on site shall be permanently removed from the site within one month of the date of this grant of permission and no storage containers shall be deposited on these lands at any time in the future.

**Reason:** In the interest of orderly development and visual amenity.

3. The existing green palisade gate along the roadside site boundary shall be permanently removed within two months of the date of this grant of permission and shall be replaced with planting as specified in the submitted Landscaping Plan received by the planning authority.

**Reason:** In the interest of visual amenity.

4. The 'Existing Storage Building' structure indicated on the submitted Site Layout Plan and specified as 'Car Garage' on the submitted Landscape Plan, scale 1:200 and the adjoining Existing Concrete Yard – which are located within the curtilage of the Applicants' dwelling to the south – shall be used solely for domestic use associated with the existing dwelling and shall not be used for commercial purposes.

**Reason:** In the interest of orderly development.

5. Landscaping shall be undertaken fully in accordance with the specifications in the submitted Landscaping Plan. Landscaping shall be implemented in the first planting season following the date of this grant of permission and permanently retained and protected from damage at all times. Any plants which fail shall be replaced in the following planting season.

In addition to the proposed landscaping works, proposals for effective screening vegetation to reduce the visual impact of the gable of the Existing Storage Building as viewed from the public road at the entrance to the subject site, shall be submitted to the planning authority for written agreement within three months of the date of this order and implemented in full within the following planting season with replacement of any failures in the following planting season.

**Reason:** In the interest of visual amenity.

6. The proposed tennis and basketball courts hereby permitted shall be for domestic use associated with the adjoining dwelling to the south and shall not be used for any other purpose.

**Reason:** In the interest of the protection of residential amenity.

7. No additional fencing and/or lighting shall be erected within the site.

**Reason:** In the interest of the protection of residential amenity.

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**DERMOT KELLY**  
**SENIOR PLANNING INSPECTOR**

**May, 2016.**

**sg**

APPENDIX A - LOCATION MAP

APPENDIX B - PHOTOGRAPHS (incl. KEY PLAN)