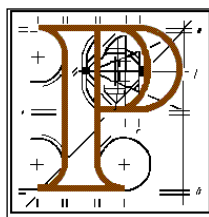


**An Bord Pleanála**



**Inspector's Report**

Development: Retention permission for demolition of outbuildings, construction of garage/store/home craft room. Permission for use of craft room for picture framing and art work at Foxfield, Rathmore, Athboy, Co. Meath

**Planning Application**

Planning Authority: Meath County Council  
Planning Authority Reg. Ref.: KA160034  
Applicant: Richard Smith  
Type of Application: Retention & Permission  
Planning Authority Decision: Grant Retention & Permission

**Planning Appeal**

Appellant(s): Anne Smith  
Type of Appeal: 3<sup>rd</sup> Party  
Observers: None  
Date of Site Inspection: 20.06. 2016  
Inspector: Fiona Fair  
Appendices: Photographs, Site location Map

## **1.0 SITE DESCRIPTION (see photographs and location map)**

The appeal site, with a stated area of 0.282 ha, is located at Foxfield, Rathmore, Athboy, County Meath. The site is accessed off the N51 between Navan and Athboy via a narrow cul de sac laneway.

There is currently a two storey detached dwelling and a detached single storey 'garage / store / home craft room' building located on the appeal site. Access to the site is via a secure gated access from the south western boundary adjoining the 'garage/ store / craft building'.

The surrounding area is typically rural in nature with scattered one off rural housing. The cul de sac laneway serves the subject appeal site and two other dwelling's, one located to the south west of the appeal site and the other accessed from the end of the lane across a field. Cognisance is had that the laneway also serves agricultural accesses.

The appeal site, itself, is relatively flat and while open views to the site are available from the N51 the site is screened with mature trees and hedgerows to the south along the access laneway.

## **2.0 PROPOSAL:**

The appeal proposal is for:

**Retention Planning Permission** for: The demolition of two outbuildings previously on the site and the construction of a domestic garage/store incorporating fuel storage and lawnmower area, heating boiler stove area and home craft room with an art office area and ancillary site works.

**Planning Permission** for: To use the crafts room and art office area for the carrying out of home crafts to include picture framing and art work and for the inscribing of medals and trophies.

The stated GFA of the works to be retained is 93.76 sq. m.

The stated GFA of the existing buildings is 93.76 sq. m

The stated GFA of any demolition is stated as unknown due to demolition

## **PLANNING AUTHORITY'S DECISION**

Meath County Council Granted planning permission subject to 5 no. conditions.

Condition 1 standard condition.

Condition 2 requires that: *'The area indicated as 'Garage area, fuel and Tools' and 'Domestic Store Area' on the plans submitted, shall be used solely for purposes incidental to the enjoyment of the dwelling house and for no other reason and not as a habitable unit, commercial store, workshop or for the housing of animals other than domestic pets. No business, trade or commercial activity of any kind whatsoever, shall take place from this area of the development without a prior grant of planning permission'*.

Conditions 3 – 5 relate to contributions towards roads and public transport, social infrastructure and surface water drainage

## **4.0 TECHNICAL REPORTS**

**4.1 The Planners report** reflects the decision to grant planning permission.

### **4.2 Objections/Submissions**

An Objection was submitted. Concerns raised are similar to those raised in the 3<sup>rd</sup> party appeal summarised in detail below.

Two letters in support of the development are also on the file.

## **5.0 APPEAL GROUNDS**

A third party appeal has been lodged by Frank Burke Chartered Engineer on behalf of Anne Smith. The grounds of appeal are summarised as follows:

- The retention permission is inadequate as it does not address all of the issues of non-compliance in the grant of permission pertaining to the site under PA 99/2499
- The entrance width and gate set-back are non-compliant with PA 99/2499
- The septic tank and percolation area are non-compliant with PA 99/2499
- The building as constructed does not comply with the Building Regulations and other standards
- The issue of effluent disposal requirements needs to be considered
- Concern with respect to traffic generation associated with the craft facility, access is too narrow, laneway is too narrow for vehicles to pass, no pull in areas, sightlines at the applicant's access are restricted, and sightlines at the junction of the N51 and the laneway are restricted and dependent upon hedge cutting which is not within the control of the applicant.
- No report from the road / traffic section on the file.
- No proposals for the disposal of surface water
- Concern with regard to disposal of waste incl. paper from the facility.
- No conditions attached to the notification of decision to grant limiting the scope of the activity to that allowed for a cottage industry in the Development plan.

## **6.0 RESPONSES**

### **6.1 The planning authority response is summarised as follows:**

- Recognise the need for and promote the development of small scale enterprises in rural areas
- Regard is had to the minor nature of the craft business
- Proposed development accords with ED POL 14 of the Meath County Development plan

- Issues of enforcement have been referred to the enforcement and compliance section of Meath County Council
- Issues of Building Control will be dealt with in due course by Meath County Council Building Control section.
- It is not considered that the works for retention would impact upon visual or residential amenities of the area.
- No employees are employed – the applicant is the sole worker at the small scale enterprise.
- Given the nature and scale of the development it is not consider it would give rise to traffic safety concerns.
- Requests that the Board supports the decision to grant permission

**6.2 A response to the appeal has been submitted by Pat Dunne, Architectural Design and Planning on behalf of the applicant Richard Smith.** It is summarised as follows:

- The appellant Anne Smith lives approx. 0.5 - 1 mile from the appeal site.
- Some grounds raised in the objection to the planning authority were of a personal nature and the applicant's solicitor requested that Meath County Council redact same. This was done.
- The grounds of the objection to the planning authority were frivolous and vexatious.
- The access lane way serves the appeal site and two other dwelling.
- The applicants dwelling is the last one on the laneway cul de sac that uses the laneway on a day to day basis.
- There is access to another house at the end of the cul de sac but this is through a field and is not in everyday use
- The entrance as constructed provides for a safe access to and from the site. If MCC felt that the applicant was in breach or non-compliant with his original grant of planning permission 99/2499 in relation to the septic tank location and access arrangement, this would have formed part of the warning letter issued to Richard Smith under 15/282

- The building will not be used as a commercial building
- The applicant is to be the sole occupier / worker of the home based activity
- No objection to inclusion of a condition limiting the number of persons to be employed in the craft area.
- The proposal due to its nature and scale will not give rise to a traffic hazard.
- Roof water will be disposed of at on-site soak pits as indicated on the drawings submitted.
- Proposals for disposal of waste have already been outlined in 'Outline of proposed day to day working' already on the file.
- No objection to inclusion of a condition with regard to storage or disposal of waste.
- Response accompanied with:
  - Letter from Richard Smith detailing background and job description
  - Copy of outline of day to day working of and at my premises
    - Hours of operation 9am – 5:30 pm Mon – Fri
    - One employee the applicant
  - Photographs
  - Letter from Traynor Environmental Ltd. stating that the treatment system and percolation area at the appeal site complies with minimum separation distances, outlined in the EPA code of practice wastewater treatment systems for single houses 2009.
  - Letter from Michael Hetheron Architectural & Engineering Services stating that he has examined the plans and drawings having particular regard to the criteria contained within the Safety, Health and Welfare at Work Acts and sees no issue or possible implications for the applicants premises involving lighting requirements and health and welfare.

## **7.0 OBSERVATION**

**7.1 An observation has been submitted by Peadar Tóibín.** It is summarised as follows:

- Supports the planning application
- The applicant wishes to set up a business to support his family after he was made redundant
- The applicant is happy to pay rates and wishes to have a good relationship with Meath County Council
- The business relates to a small craft enterprise with only one employee

## **8.0 PLANNING HISTORY**

**8.1 Reg. Ref. 992499** Permission Granted for a two storey dwelling and domestic garage, install septic tank and percolation area and convert existing old house to domestic store.

The Planners report on file states:

*'UD/15282 Enforcement Notice issued regarding unauthorised construction of a garage / outbuilding. (Case open)*

*UD/15245, Warning Letter issued regarding use of domestic store as shop (closed)'*

## **9.0 DEVELOPMENT PLAN**

The current statutory Development Plan for the area is the Meath County Development Plan 2013 – 2019.

Chapter 10 Rural Development

Chapter 11 Development Management Guidelines and Standards

## **10.0 ASSESSMENT**

I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. In my judgement the principle factors for consideration in this appeal relate to:

### **10.1 Validity of the Application and Noncompliance with Parent Planning Permission Reg. Ref. 99/2499**

### **10.2 Non Compliance with Building Regulations and other Standards**

### **10.3 Traffic Issues**

### **10.4 Surface water disposal**

### **10.5 Waste Disposal**

### **10.6 Appropriate Assessment (AA)**

### **10.1 Validity of the Application and Noncompliance with Parent Planning Permission Reg. Ref. 99/2499**

The proposed development and that to be retained is clearly set out in the public notices, see section 2.0 above for full details.

I have considered the information on file and the concerns raised by the third party with respect to non-compliance with the parent planning permission. Details of the planning history are set out in section 8.0 of this report above. On foot of Reg. Ref. 99/2499 planning permission was granted for a two storey dwelling and domestic garage, installation of septic tank and percolation area and conversion of an existing old house to a domestic store. The applicant submits that he replaced the old house and out buildings with the in-situ building due to the poor condition / state of decline of the old buildings. From google maps and photographic evidence attached to the file I consider that the layout, scale and height of the replacement structure has had regard to the original structures.

The third party is of the opinion that the applicant should be required to seek to redress all issues of noncompliance in the original grant of permission



pertaining to the site i.e. Reg. Ref. 99/2499, specifically issues with respect to width and set back of the site access and the revised location of the septic tank and percolation area.

While I note that the date of grant of the parent permission is well in excess of the 7 year enforcement time frame within which enforcement proceeding can be enacted I highlight that enforcement action is within the sole remit of the planning authority and not a function of An Bord Pleanala. In this regard the response by the planning authority to the subject appeal is of relevance. It states that *'issues of enforcement have been referred to the enforcement and compliance section of Meath County Council'*. Based on the foregoing I do not recommend a refusal of planning permission based upon, invalidity of the planning application or non-compliance with the parent planning permission.

## **10.2 Non Compliance with Building Regulations and other Standards**

The third party appellant is of the opinion that the building, as constructed, does not comply with the Building Regulations and other standards. Concern is raised with respect to natural light, issues of effluent disposal, access for employees of commercial workshop to WC and suitability of the site for septic tank and percolation area installation.

The applicant clearly submits that he is the sole operator of the small scale craft business, located adjacent to his home. He does not intend to employ any other person at this time. I note the information on file, in particular, the document *'outline of day to day working of and at my premises'* which sets out that the building will not be used as a commercial building, the hours of operation will be from 9am – 5:30 pm five days a week. The craft room, office art area is used to carry out trophy inscribing, art work and picture framing. No additional employees, other than the applicant, are needed for the small scale enterprise. There is no objection to inclusion of a condition limiting the number of persons to be employed in the craft area. I also have cognisance to the report from Traynor Environmental Ltd. stating that the treatment system and percolation area at the appeal site complies with minimum separation

distances, outlined in the EPA code of practice wastewater treatment systems for single houses 2009. Also the report from Michael Hetheron Architectural & Engineering Services stating that he has examined the plans and drawings having particular regard to the criteria contained within the Safety, Health and Welfare at Work Acts and sees no issue or possible implications for the applicants premises involving lighting requirements and health and welfare.

From my site visit I can confirm that the building is being used as an 'office & art area', 'craft room' 'domestic store area' and 'garage area fuel and tools' as indicated on the drawings submitted and in the public notices. The nature and scale of the craft business is clearly minor in scale and therefore is in line with County Development Plan policy which recognises the need for and promotes the development of small scale enterprises in rural areas. I agree with the planning authority that the development accords with ED POL 14 of the Meath County Development Plan which aims '*to promote rural economic development by recognising the need to advance the long term sustainable social and environmental development of rural areas and encouraging economic diversification and facilitating growth of rural enterprises.*'

I refer to the response from the planning authority which states that '*Issues of Building Control will be dealt with in due course by Meath County Council Building Control Section*'.

Based on the foregoing I do not recommend a refusal of planning permission based upon, non-compliance with Building Control Regulations and other standards.

### **10.3 Traffic Issues**

The applicant does not propose to alter the existing access arrangements. It is clearly stated that the applicant is the sole operator of the small scale craft business, located adjacent to his home. He intends to set up a website for his business with a catalogue of his products / services. He also plans to provide a full delivery service for all his products and he will be delivering the products

himself or by parcel post. All materials used at the premises is collected by the applicant by car and there are no deliveries by commercial or HGV's to the premises.

The appeal site accesses onto a narrow cul-de-sac laneway which forms a junction with the N51 a short distance to the north west of the appeal site. From my site visit I can confirm that the N51 has a straight carriageway at the junction, and while a continuous white line is noted, clear sightlines at the junction are available.

Albeit the cul-de-sac laneway is narrow, it serves limited traffic (three houses and some agricultural entrances) and having considered the nature of the proposal with limited associated traffic, taking into account the established residential nature of the site, I am of the opinion that the proposed development, if permitted would not result in a traffic safety concern.

#### **10.4 Surface water disposal**

Given that this appeal proposal inter-alia entails retention of a replacement structure on an existing residential site. I do not consider that refusal of planning permission on grounds of inadequate surface water disposal is warranted or indeed that any evidence has been submitted which suggests that the proposed development if permitted would be prejudicial to public health and therefore should be refused planning permission on such grounds.

#### **10.5 Waste Disposal**

I consider that the applicant has adequately addressed the matter of waste disposal in the supporting document '*outline of day to day working of and at my premises*'. It is submitted that only a small amount of wood shavings is produced from the guillotine which is used in heating a wood stove in the work area. Packaging / waste cardboard is brought to the recycling centre and all glass is already cut to size by the supplier and therefore there is no glass waste.

I do not consider that refusal of planning permission on grounds of inadequate waste disposal is warranted or indeed that any evidence has been submitted which suggests that the proposed development if permitted would be prejudicial to public health on waste grounds.

## **10.6 Appropriate Assessment (AA)**

The planners report sets out that there are no Natura 2000 sites located within or adjacent to the site. The nearest Natura 2000 site the River Boyne and River Blackwater SAC and SPA is situated c. 5.3Km from the site.

Having regard to the minor nature and scale of the works proposed for retention, including use proposed and separation distances involved to adjoining Natura 2000 sites, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## **11.0 CONCLUSION / RECOMMENDATION**

In conclusion, further to the above planning assessment of matters pertaining to this appeal, including consideration of the submissions of each party to the appeal and the site inspection, I recommend a Grant of planning permission for the development to be retained and that proposed in accordance with the said plans and particulars based on the reasons and consideration under and subject to the conditions set out below.

## **12.0 REASONS AND CONSIDERATIONS**

Having regard to the nature and design of the existing development, and to the pattern of development in the immediately surrounding area it is considered that, subject to compliance with conditions below, the development to be retained and that proposed would not seriously injure the amenities of the area or of property in the vicinity would be acceptable in

terms of traffic safety, foul and surface water disposal and waste disposal and would accord with the proper planning and sustainable development of the area.

### **13.0 CONDITIONS**

1. The development shall be Retained and carried out 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the structure to be retained shall be restricted to 'garage, store', incorporating fuel storage and lawnmower area, heating boiler stove area and 'home craft room' with an art office for the carrying out of home crafts to include picture framing, art work and for the inscribing of medals and trophies, as specified in the lodged documentation, unless otherwise authorised by a prior grant of planning permission.

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

3. The 'garage, store' and 'home craft room', shall not be sold or let independently of the main house and when no longer required for use as 'home craft room', the use shall revert to garage / shed / store use ancillary to the main house.

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

4. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Fiona Fair  
Planning Inspector  
27.06.2016