



An
Bord
Pleanála

Inspector's Report PL06F.246633

Development	Construction of an agricultural structure (area 195 sq.m – ridge height 7m) and all associated site works at Courtlough, Balrothery, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F15A/0371
Applicant(s)	Ray Murphy
Type of Appeal	First
Planning Authority Decision	Refuse
Appellant(s)	Ray Murphy
Observer(s)	Andrew Gaffney Michael & Vera Gaffney
Date of Site Inspection	23 August 2016
Inspector	Una Crosse

1.0 **Site Location and Description**

1.1. The appeal site has a stated area of 1.79 hectares and comprises a large, regularly configured open field bounded to the west by the public road. Access to the site is from the southwest. The site is adjoined by dwellings directly to the north and to the west of the site on the other side of the public road. There were 3 horses grazing the site on the day of my visit. The site is located approximately 2km to the south of Balrothery and north of the Man-o-War crossroads. Maps and photos are included in the pouch.

2.0 **Proposed Development**

2.1. The proposal provides for an agricultural shed, 195 sq.m in area and 7m in height for the keeping of horses located to the south east of the site. The shed accommodates 3 stables and a feed room and is predominately finished in cladding panels with a low-level blockwork concrete wall.

2.2. In response to the request for additional information the proposed structure was reduced in height from 7m to 5m. The shed has the same area at 195 sq.m but now proposes to accommodate 6 stables, a tie-up area and a hay storage area with revised finishes.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was refused for the proposed development for 2 reasons which are summarised as follows:

- Location of site within a High Amenity area with objectives HA01 and GI39 seeking to protect such area from inappropriate forms of development with applicant not demonstrating sufficiently an agricultural need for the proposal and not demonstrated that proposal is used for agricultural purposes and in

the absence of such a need it is considered the proposed would contravene the stated objectives of the Plan in respect of High Amenity zoned areas;

- Proposal would set an undesirable precedent

3.2. Planning Authority Reports

The report of the area planner can be summarised as follows:

No supporting documentation submitted detailing the proposed use of the shed with no justification for same. Proposal is not part of a wider agricultural holding or working farm. Concern expressed about the scale and design of the proposal on lands zoned high amenity and designated as a highly sensitive landscape. Visual impact assessment is also considered necessary. Further information was sought in respect of the need for the structure including details of land and horse ownership; reduction in scale of structure taking account of the high amenity, visual impact assessment, information on surface water drainage.

In response to the receipt for further information it is stated that only 2 horse passports have been provided and that he keeps ponies as a hobby. While it is stated that it is proposed to keep 6 horses it has not been demonstrated that these animals belong to him with the potential for leasing of the proposed structure to third parties. The scale of the structure is considered excessive to cater for the number of animals proposed. It is considered that the use of the proposed structure does not come within the definition of agriculture as defined in the Act and is such is considered to be non-agricultural. The lands in question are considered sensitive and the use of the structure for hobby purposes has not been sufficiently justified. Concerns remain regarding the scale of the structure and absence of screening. It is noted that a basic visualisation of the structure has been submitted which is considered inadequate.

3.3. Other Technical Reports

No objection from Irish Water, Water Services Engineer and Transport Engineer.

3.4. **Third Party Observations**

As per the issues outlined in the observations below.

4.0 **Planning History**

4.1. There is a significant planning history on this site which is summarised as follows:

- F09A/0497 – House to facilitate B&B – refused – failed to demonstrate qualification for a rural dwelling in HA area; scale of dwelling excessive; insufficient detail regarding foul, water supply and surface water.
- F09A/0239 – House to facilitate B&B – refused – failed to provided sufficient evidence to demonstrate qualification under Rural Housing policy; scale of dwelling excessive; insufficient detail regarding foul, water supply and surface water.
- F99A/0102 – Bungalow – refused – material contravention of Rural Housing Policy.
- F99A/0101 – Dormer – refused - material contravention of Rural Housing Policy.
- F98A/1170 – Bungalow – refused - material contravention of Rural Housing Policy; ribbon development, no evidence of soil suitability;
- F98A/1128 – bungalow - material contravention of Rural Housing Policy; ribbon development, no evidence of soil suitability;

5.0 **Policy Context**

The site is located in a rural area approximately 2km to the south of Balrothery.

6.0 **Development Plan**

The site is zoned 'HA' in the Fingal County Development Plan 2011-2017, the objective of which is to protect and enhance high amenity areas.

Objective HA01 seeks to protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place.

Objective GI39 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.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- High Amenity zoning main reason for refusal but as noted at additional information stage there are two zonings on the site;
- High Amenity zoning covers majority of the site but portion zoned RU agricultural with offer to move the structure onto the RU zoning which should have been considered with this offer remaining for the Board;
- Proposal located on periphery of a localised HA zoning surrounded by RU zoned lands with no views from the public road;
- Applicant is a horse/cob/pony owner with passports to prove same with 6 horses grazing the field at time of PA inspection with photographs proving same;
- Keeping horses is an agricultural use with the location of an agricultural structure in a rural area proper planning;
- Applicant has to date had to keep horses in a livery during winter and wants to keep them on his own land reducing costs;

- Documents provided at further information were verifiable and a more than adequate response to the AI request and justified permission;
- Inclusion of reason related to undesirable precedent should not be included as relates to what might happen in the future with each proposal considered on their own merits;
- Previous application for a Section 5 declaration refused as Class 6 only applies where there is an existing farm enterprise with appeal to the Board not possible;
- Provisions of Class 6 does not include an existing farm complex must first exist;

7.2. **Planning Authority Response**

- Remains that the proposal would contravene the stated objectives of the Plan in respect of High Amenity zoned areas;
- Provision to be made for a Section 48 contribution if permission is granted;

7.3. **Observations**

The observations received are summarised as follows:

- Area is designated green belt hosting many protected species;
- Size and appearance of structure at odds with surroundings and height would have a significant impact on the landscape;
- Previous application for a large B&B previously refused with proposal attempt to gain a foothold leading to a larger development of the site;
- Applicant not from the area and no link to agriculture with response to PA's questions lacking with use of field by others for keeping horses not justification;
- Proposal would affect everyday well-being of families living in three domestic houses;
- Proposal materially contravenes the zoning objective.

8.0 Assessment

8.1. I consider the **key issues** in determining this appeal are as follows:

- Principle of Proposal
- Visual Impact
- Appropriate Assessment

8.2. Principle of Proposal

The appellant in this instance is seeking to develop an agricultural shed on a site of 1.97 hectares for the purpose of keeping horses. It is stated that six horses would be kept in the structure with the revised structure accommodating six stables. Firstly, I would note that the appellant sought a Section 5 reference from the Local Authority in May 2015 which stated that the proposal was not exempt under Class 6 of the exempted development provisions. The reason provided was that the provision of Class 6 are considered applicable only to existing farm enterprises and as there is no existing farmyard/farmyard complex the provisions of Class 6 do not apply. The appellant stated that it was not possible to appeal this and no option remained other than to make a formal planning application. However, the appellant is incorrect in stating that no appeal process is available for a Section 5 reference.

Notwithstanding, Class 6 to which the appellant refers is Class 6 of Part 3 of Schedule 2 of the Planning and Development Regulations 2001 as amended. I would also note that Class 6 refers to Works consisting of the provision of a roofed structure for the housing of cattle, sheep, goats, donkeys, horses, deer or rabbits, having a gross floor space not exceeding 200 square metres (whether or not by extension of an existing structure), and any ancillary provision for effluent storage. The conditions and limitations attached to Class 6 include that 1. No such structure shall be used for any purpose other than the purpose of agriculture; 2. The gross floor space of such structure together with any other such structures situated within the same farmyard complex or within 100 metres of that complex shall not exceed

300 square metres gross floor space in aggregate. 3. Effluent storage facilities adequate to serve the structure having regard to its size, use and location shall be constructed in line with Department of Agriculture, Food and Rural Development and Department of the Environment and Local Government requirements and shall have regard to the need to avoid water pollution. 4. No such structure shall be situated, and no effluent from such structure shall be stored, within 10 metres of any public road. 5. No such structure within 100 metres of any public road shall exceed 8 metres in height. 6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof; and 7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

While it would appear that the proposal would comply with the conditions and limitations, the case before the Board is not a section 5 reference and therefore consideration of whether the proposal is exempt is not relevant in this instance notwithstanding the provisions of Class 6. I would also note that I have not addressed the considerations set out in Article 9 of the Regulations as this is not a referral. As I have said, the matter before the Board is whether the proposal of an agricultural shed on these lands for the keeping of horses is acceptable.

I would suggest that the principle of an agricultural shed on lands located in a rural area is acceptable in principle. Notwithstanding the zoning of High Amenity, there are existing dwelling houses within the immediate area and therefore the area is subject to existing development. I do not consider that the proposal would impact on the residential amenities of the adjoining properties as suggested in the observations. The proposal is for an agricultural shed for the keeping of animals, a common feature in the rural landscape. I note the offer to move the shed to the

northeast corner which is zoned RU, however I do not consider that there would be must difference in respect of potential impact.

I consider that given the extensive planning history on the site, particularly given the history of refusals for dwellinghouses of varying types, the concern regarding the proposed shed is that permission for same would provide the applicant with an opportunity to seek permission for a house in order to be in close proximity to the animals. I would suggest that such cannot be pre-empted and the proposal must be considered on its merits rather than on what opportunities may arise from same. Given that a dwellinghouse is not part of the current proposal to accommodate the animals I would suggest that the applicant in this case has planned for and accepted that he can travel to and from his nearby home (Balrothery) to the shed to tend the animals. Therefore I would conclude that the proposal is acceptable in principle, in my opinion.

8.3. **Visual Impact**

While I note that the site is located within an area zoned High Amenity I would also note that the area in question includes a number of road fronting dwelling houses, with the dwellings to the west of the site within the high amenity area, and therefore the area in question does not, in my opinion, comprise pristine landscape. Given the orientation of the proposed structure on an west-east axis, its location to the rear of the site, the land to the rear of the site rising in level, the reduction in height to 5 metres and the revised finishes, views from the public road through the site are not impeded, in my opinion. I do not consider that the structure would have a significant impact on the amenity of the area particularly given the shed is located to the rear of the site and is not adjoining the road. While the shed will inevitably be visible, an agricultural shed is a common feature in a rural landscape and therefore would not comprise an incongruous structure within the setting. As I note above, I do not consider that moving the shed to the north east of the site would lessen or reduce any potential visual impact. I note the visual assessment carried out by the applicant's agent and while simplistic in its methodology I consider that the essence

of its conclusions expressed by means of photos with the building superimposed are relevant to the consideration of the proposal. I would therefore consider that the proposal would not impact adversely on the visual amenity of the area.

8.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment and proximity to the nearest European sites, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

9.1. I recommend that planning permission should be granted subject to the conditions set out below.

10.0 REASONS AND CONSIDERATIONS

Having regard to nature of the proposed development and to the rural nature of the area within which the site is situate, it is considered that, subject to compliance with the conditions set out below the development would not seriously injure the visual or residential amenities of property in the vicinity of the site or the amenities of the area, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would 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 plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 30 day of March 2016,

except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

3. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Una Crosse
Senior Planning Inspector

August 2016