



An
Bord
Pleanála

Inspector's Report PL07.247030

Development

The retention and completion of domestic sheds and agricultural buildings and the change of use of an existing unauthorised educational therapy centre to a domestic shed and all associated works and services.

Location

Corrandrum, Tuam, Co. Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

16/661

Applicant(s)

Shivam O'Brien

Type of Application

Retention

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Shivam O'Brien

Observer(s)

none

Date of Site Inspection

1st November, 2016

Inspector

Stephen Kay.

1.0 Site Location and Description

- 1.1. The appeal site is located c.15km to the north east of Galway City and is accessed via a small local road that runs east off the N17. The site as indicated in the application comprises a total of 0.46 ha. and is sited between two existing dwellings. To the immediate west of the appeal site is located a site containing an existing two storey dwelling with outbuildings to the rear. This property is in the ownership of the first party. Access to the appeal site is available via an entrance that serves the dwelling to the west in the ownership of the first party. There is a further residential property in third party ownership located immediately to the east of the appeal site.
- 1.2. The existing structures located on the appeal site comprise what is described in the public notices as domestic sheds located towards the northern part of the site. This structure is located approximately in line with the existing residential properties located to the west (that in the ownership of the first party) and to the east. The domestic shed structure as constructed comprises a large linear single storey element with a two storey section at the south east corner. The structure is built of timber and is largely completed. From the information on file and the planning history of the site it would appear that this structure was originally constructed to be used in conjunction with the activities undertaken by the first party in the area of meditation, therapy and spiritual practice. This previous use of the site has a website (ParvaniHall.ie). It is stated in the application documentation that any commercial activity or use of the building for the purpose of visitors or organised events has ceased and that the proposed use of this structure would now be as ancillary space to the dwelling for the first party to pursue his interest in meditation and also as a space to be used by his children.
- 1.3. The finishes to the shed structure comprise primarily timber with plaster and metal sheeting. The existing layout of the structure comprises a large open plan area at ground floor level with a number of smaller rooms accessed off this on the northern side. There is a lean to domestic shed structure located on the northern side of the building. The two storey element to the south east corner has what is indicated on the submitted plans as a play room at ground floor level and a snooker room at first floor level. It is noted that the information available online indicates that when in commercial use the Parvani Hall structure had a sauna and three indoor toilets

however none of these features are indicated on the layout submitted with the application. The stated floor area of the shed structure is 397 sq. metres.

- 1.4. The second building for which permission for retention and completion is sought is the located to the south of the dwelling owned by the first party and is described in the public notices and drawings as an agricultural building. This structure is only partially completed and is of a very significant scale and height. Construction to date comprises a timber frame or building outline and there is no indication that in its current form that it is being used for agricultural purposes. The construction as inspected on site would when completed incorporate a number of levels with two storey elements located on the eastern and western side and single storey in the centre. The finishes proposed comprise timber and metal sheeting. In its current form the partially completed building has a poor visual appearance as well as being of significant scale being c. 7.5 metres in overall height. It would appear from the information on file that the construction work undertaken to date has been undertaken over a considerable period with work commencing in 2004.
- 1.5. The application documentation does not indicate that the existing structures on site are connected to the public drainage network or served by an on site treatment system. It is noted that a previous application on the site (ref. 15/533) indicated that an on site effluent treatment system was proposed.
- 1.6. The application documentation indicates that the appeal site forms part of a larger area of c. 40 acres in this area that is in the ownership of the first party. It is noted that a revised land ownership map (blue line boundary) has been submitted with the first party appeal submission.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of the works undertaken to date on the existing shed and agriculture structures and for their completion as set out in the submitted plans. The finishes to both buildings comprise primarily timber with metal sheeting for the roofs. A small amount of plaster finish is indicated in the shed structure as completed.

- 2.2. The stated completed floor areas of the buildings are 528 sq. metres for the agricultural building and 397 sq. metres for the shed structure.
- 2.3. As set out above, it is stated by the first party that it is no longer intended that the 'shed' building would be utilised in connection with any commercial activity related to meditation, therapy or spiritual practice and that the use will be confined to his own use and that of other family members.
- 2.4. On completion of the agricultural building it is stated that this would be used in connection with agricultural activity that the first party undertakes on his wider landholding in this general area.
- 2.5. Access to the site is and is proposed to remain via the existing vehicular access to the residential property which is in the ownership of the first party to the west of the appeal site.
- 2.6. The application form indicates that the site is served by a piped water supply. It is not clear from the information provided how the site is drained and no separate effluent treatment system is proposed in the application which is the subject of the current appeal.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for two reasons that can be summarised as follows:

- That the absence of a habitable dwelling house on the site and having regard to the scale, design and finishes of the proposed shed to be retained it is not considered to be domestic in nature and would be such that it would not assimilate into the rural landscape. The retention of the structure would therefore materially contravene Objective RH09 of the development plan and would conflict with Objective LCM1 and DM standard 6 of the plan. The proposed development would therefore detract from the visual amenity of the area, would mitigate against the preservation of the rural environment, would

set an undesirable precedent for other similar development and would depreciate the value of property in the vicinity of the site.

- That in the absence of a comprehensive justification for the agricultural building and having regard to the excessive scale, height, bulk, massing and finishes, the agricultural building as proposed to be retained and completed is not considered to be proportionate to the extent of the landholding. The retention and completion of the structure would not result in a built form that assimilate into the rural landscape and it would materially contravene Objective RH09 of the County development Plan with regard to the protection of the character, pattern and tradition of existing places, materials and built forms in the landscape. The proposed retention and completion would also conflict with Policy MN1, Objective LCM1, NHB1 and DM standards 6, 33 and 40 of the plan.

It is noted that the Reasons for Refusal cited by the Planning Authority make reference to Material Contravention of Objective RHO9 of the Galway County Development Plan, 2015-2021 and that the provisions of s.37(2)(b) of the Act are therefore applicable in the assessment of this appeal.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the nature, design and scale of the development undertaken on the site and considers that the scale and nature of the structures are such that they would have an adverse impact on the rural character of the area. It is also considered that in the case of the agricultural building there is insufficient evidence of an agricultural activity that would justify the development undertaken. Similarly the scale of the shed structure is considered to be disproportionate for a residential setting.

3.3. Third Party Observations

No third party observations were made to the Planning Authority.

4.0 Planning History

The following planning history relates to the appeal site:

Galway County Council Ref. 16/154 – Application for retention and completion of the shed structure and agricultural building. Deemed invalid and no decision issued.

Galway County Council Ref. 15/533 – Application for the retention and completion of an educational / therapy centre (Parvani hall), domestic sheds and agricultural buildings and permission for an effluent treatment plant plus all associated works and services. This application was withdrawn prior to a decision being issued.

5.0 Policy Context

5.1. Development Plan

The appeal site is located in a rural area and is outside of any identified settlement.

The site is located in an area that is identified as landscape sensitivity Class 1.

There are a number of policies and objectives referenced in the assessment of the Planning officer as follows:

Objective RHO9 states that it is an objective to have regard to the council's design guidelines on single rural houses

Policy LCM1 seeks to preserve and enhance the character of the landscape where and to the extent that, in the opinion of the planning authority, it is required by the proper planning and sustainable development of the area.

Objective LCM1 states that the planning authority shall have regard to the landscape sensitivity of the area.

Policy NHB1 states that it is the policy of the council to support the protection conservation and enhancement of natural heritage and biodiversity including the protection of European designated sites.

Policy NHB2 states that it is policy to recognise that nature conservation is not confined to designated sites and recognise the need to protect non protected habitats and landscapes.

DM standards 6 (assimilation of development into the landscape), 33 (agricultural buildings – including design and layout) and 40 (environmental assessments).

5.2. **Natural Heritage Designations**

The site is not located within or in close proximity to any European designated site or any NHA.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The following is a summary of the main points raised in the first party appeal submission:

- That the structures developed on the site are well screened and are not visible from the public road. The site is in a landscape area class 1 and there are no protected views impacted.
- That the structures are located on lands that comprise a small farm of c. 40 acres.
- That the current application is on foot of a warning letter that arose from the holding of a festival on the site. A previous application for the retention of what is now described as a shed structure as an educational / therapy centre was withdrawn as it was not favourably received by the Planning Authority.
- That both structures are quirky and eccentric in design and that the applicant has put a lot of time and effort into their construction.

- That the domestic building is intended to be used as a personal space for the applicants interest in meditation and spiritual practice and also as a space for his children.
- That the agricultural building is not a regular cattle shed. The design of the building has been influenced by agricultural structures seen in Slovenia. The design has raised floors for the storage of grain, hay and feed.
- That the scale of the domestic sheds is large as this reflects the originally intended use as an educational and therapy use. There is no reason however why it cannot be adapted as useful domestic storage as well as for the applicant's interest in meditation and reading and for the use of his children.
- That the scale of the shed while large is not exceptional having an overall height of 6.85 metres. The materials, scale and design creates a pleasing and attractive structure and is significantly less intrusive than a traditional agricultural structure.
- That the statement of the council that there is no dwelling on the site is 'hair splitting' and just a reflection of the way that the red line boundary is shown. A condition requiring that the sheds and house be retained in single ownership could be attached.
- Regarding the need for an agricultural shed, a letter from an adjoining farmer is attached setting out the extent of the applicants holding and that he is unique in not having a shed on his lands. A revised map showing his agricultural lands is also attached.
- The first party states that the shed is required to store bales of hay and to keep and train horses. Stated that family have been farming these lands for 400 years and that the structures proposed are connected with farm diversification and therefore in keeping with the policies of the development plan.
- That reference to DM standard 6 regarding the impact on the landscape is not understood given the screening of the site and the design. Similarly reference to designated sites is not clear. A screening for appropriate assessment can be submitted if required, however this is not considered necessary.

6.2. Planning Authority Response

There is no record on file of a response from the Planning Authority.

7.0 Assessment

7.1. The main issues relevant to the assessment of this appeal are as follows:

- Proposed use of the structures
- Visual Impact and impact on amenity,
- Other Issues

7.2. Proposed Use of Structures and Principle of Development

- 7.2.1. With regard to the structure advertised as a domestic shed, I note the fact that the origins of this structure was as a commercial building for use in connection with meditation and spiritual practice. The first party states that it is no longer his intention that it would be used for commercial purposes and that its function is as a space for private meditation and spiritual practice. This clarification is accepted and the proposed retention of the structure is assessed on the basis that its use is private and not for visiting members of the public.
- 7.2.2. The documentation submitted with the application makes a number of references to the use of the structure as additional accommodation to augment that in the existing dwelling. References are made to the age and poor structural condition including the presence of damp in the original house and it is stated that the applicant has '*four children who grew out of their cramped rooms in the old family house.*' The wording used in the documentation submitted would indicate to me that the structure described as a domestic shed in the public notices may be used at least some of the time as habitable accommodation. I did not verify this at the time of the inspection of the site as I did not gain access to the interior of the structure.
- 7.2.3. I also note the size of the structure for which retention is sought. At 397 sq. metres floor area it is of a significant scale and far in excess of what would normally be considered appropriate for a shed to be used for domestic purposes. The

application documentation does not indicate the floor area of the existing dwelling on the adjoining lands to the west, however it would appear to me from an inspection of the site that the floor area of the existing dwelling is clearly significantly less than the structure for which retention is sought.

7.2.4. Overall therefore I would have concerns regarding the likely use of the shed structure and specifically its potential to be used as habitable accommodation. I also have concerns with regard to the scale of the development proposed relative to the dwelling on site and the degree to which the retained structure would be ancillary to the main dwelling. The fact that the structure proposed for retention is indicated as being of passive design and warmer and more energy efficient than the existing dwelling would also indicate that it is or has the potential to be used as habitable accommodation. The subdivision of the site for habitable accommodation and the precedent which the scale and form of development constructed constitutes is in my opinion contrary to the proper planning and sustainable development of this rural area.

7.2.5. Related to the above, I note the fact that reason for refusal No.1 cited by the Planning Authority makes reference to the fact that there is no habitable dwelling located within the site curtilage and that this influences the determination that the shed structure proposed for retention is not domestic in nature or form. As highlighted by the first party appeal submission, I note that there is clearly a domestic dwelling on the wider contiguous lands in the ownership of the first party in this location and do not consider it appropriate that the shed structure would be assessed independent of any established residential use of the site.

7.2.6. With regard to the agricultural structure, the form and function proposed is difficult to envisage from what currently exists on site and reference has to be made to the submitted drawings and written description of what is proposed. The applicant has provided information as to how the basis for the design relates to agricultural structures which he has observed in other countries, specifically Slovenia. Notwithstanding the details submitted with the appeal regarding the agricultural activities undertaken by the first party which it is stated relate to hay and the breeding of horses it is not clear to me how the form of structure proposed for retention would serve these activities. From an inspection of the site it is also not apparent how up to now the first party has to date undertaken the agricultural

activities cited given the lack of any other significant agricultural structures on the site.

- 7.2.7. I also note the fact that the application documentation states that the agricultural structure for which retention is sought was commenced in 2004. While a significant amount of work has clearly gone into the construction undertaken to date on the agricultural building, there is a very significant amount remaining to be completed before the structure would be finished and capable of beneficial use for agricultural purposes. Overall therefore while I note the information submitted by the first party with regard to his agricultural activities, it is not clear to me how the activities cited necessitate a structure of the form and scale of that for which retention is now sought.

7.3. Visual Impact and Impact on Amenity,

- 7.3.1. The first party appellant contests the conclusions of the Planning Authority that the structures proposed for retention would not assimilate appropriately into the rural landscape and would detract from the visual amenity of the area. The first party submission notes the fact that the structures are predominately timber and are such that they better integrate into the rural environment than is the case with traditional agricultural barn structures. It is also contended that the structures are sited and the site landscaped such that the structures would not be clearly visible from other sites or the public road. The fact that the site is located in an area that is not identified as a scenic landscape is also highlighted.
- 7.3.2. The report of the Planning Officer contends that the scale design and finishes of the structures are such that they would detract from the general amenity of the rural landscape. Both reasons for refusal make reference to the fact that the proposed development would materially contravene Objective RHO9 of the Galway County Development Plan, 2015-2021 and the provisions of s.37(2) of the Planning and Development Act, and the restrictions on the scope of the Board to grant permission in such circumstances, are therefore applicable. The first party submission does not specify which of the provisions under s.37(2) of the act might apply such that the Board may consider a grant of permission. In my opinion, the proposed

development is clearly not of strategic or national importance and I do not see that there are clear conflicting objectives in the development plan that would support the form of development proposed. I am not aware of any national or regional planning guidance that would support the form of development for which retention permission is sought and similarly I am not aware of any developments of a similar form being permitted since the making of the current county development plan in 2015. For these reasons it is my opinion that having regard to the wording of the reasons for refusal issued that the scope of the Board to grant permission is limited in this case.

- 7.3.3. The appellant states that the design and form of development for which retention is sought would not be such as to have a significant impact on the residential amenity of surrounding properties. In this regard I note and agree with the first party that both structures are well screened relative to the public road and adjoining properties to the east and west. No clear view of either structure proposed for retention is available from the public road. I also note that the site is located within landscape class 1 which is the lowest sensitivity. In stating this however, DM standard 39 of the Plan states that within areas identified as Class 1 – Low Sensitivity '*all developments consistent with settlement policies would be generally acceptable*'. I do not consider that the proposed domestic shed has demonstrated how it is consistent with the settlement policies set out in the Plan.
- 7.3.4. The first party states that the merits of the design and materials used in the construction of the shed and agricultural buildings is subjective and I would agree that this is the case. I would agree with the first party that there is merit to the use of alternative design approaches to agricultural buildings and that the use of timber could be appropriate. Similar to the issues raised at 7.2 above regarding the proposed use, my main concerns regarding visual impact relate to the scale of the structures proposed and their necessity in this rural area. As set out previously, the scale of the domestic shed structure at 397 sq. metres is in my opinion far in excess of what is justifiable and is such that it is clearly not ancillary to the main residential use on the site. I accept to a certain degree the comments made by the first party regarding the work and design detail that has gone into the construction of this building however its scale is in my opinion such that it would have an overall adverse impact on the character of the rural landscape. Similarly, the bulk and scale of the agricultural building which is proposed for retention and completion is, in my opinion

and on the basis of the information available regarding existing agricultural activities, excessive relative to the proposed use and is in my opinion such that it would have an overall adverse impact on rural character. Due to their excessive scale I consider that the structures proposed for retention are contrary to DM standard 6 regarding the assimilation of development into the rural landscape and also DM standard 33 which requires, inter alia, that buildings shall be of minimum scale.

- 7.3.5. Objective RHO9 of the Plan which is cited by the Planning Authority as being materially contravened by the proposed development states that It is an objective of the council to have regard to Galway County Councils Design Guidelines for the Single Rural House. Neither of the structures proposed are dwellings however I consider that the proposal is contrary to principles of scale, height and proportions as set out in the Guidance and the protection of existing character and pattern of development in rural areas.

7.4. Other Issues

- 7.4.1. The first party notes that the decision of the Planning Authority makes reference to DM standard 40 which states that screening for appropriate assessment and / or Stage 2 appropriate assessment will be required with all applications where it is considered that the proposed development may impact on a Natura 2000 site. No appropriate assessment screening has been submitted with the application and I note the comments of the first party appeal which states that such an assessment can be submitted in the event that it is considered necessary by the Board.
- 7.4.2. The closest Natura 2000 site to the appeal site is the Lough Corrib SAC (site code 000297) which is located c.2km from the appeal site at the closest point. The conservation objectives of the Lough Corrib SAC include the preservation or restoration to favourable conservation status of the following habitats and species:
- Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]
 - Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]
 - Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]

- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]
- Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]
- Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]
- Active raised bogs [7110]
- Degraded raised bogs still capable of natural regeneration [7120]
- Depressions on peat substrates of the Rhynchosporion [7150]
- Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]
- Petrifying springs with tufa formation (Cratoneurion) [7220]
- Alkaline fens [7230]
- Limestone pavements [8240]
- Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]
- Bog woodland [91D0]
- Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]
- Austropotamobius pallipes (White-clawed Crayfish) [1092]
- Petromyzon marinus (Sea Lamprey) [1095]
- Lampetra planeri (Brook Lamprey) [1096]
- Salmo salar (Salmon) [1106]
- Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]
- Lutra lutra (Otter) [1355]
- Drepanocladus vernicosus (Slender Green Feather-moss) [1393]
- Najas flexilis (Slender Naiad) [1833]
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7.4.3. In the case of the development proposed for retention, it is not entirely clear what drainage arrangements are proposed. As set out at section 1.0 above, the application documentation indicates that the existing structures on site are not connected to the public drainage network and are not served by an on site treatment system. It is noted that a previous application on the site (ref. 15/533) indicated that an on site effluent treatment system was proposed. It is also noted that previously published information about Parvani Hall (the shed structure proposed for retention) indicated that it was served by three indoor toilets and that there was also a sauna. None of these features are however indicated on the floor plans submitted with the current application. In view of these issues it is not possible to undertake a detailed screening assessment and in the event of the Board considering a grant of permission in this case it may consider it appropriate to request further details from the applicant on these matters and the submission of a screening assessment for appropriate assessment.

8.0 Recommendation

8.1. In view of the above it is recommended that permission be refused based on the following reasons and considerations:

9.0 Reasons and Considerations

1. Having regard to its design and scale, its physical separation from the dwelling on the site and the floorspace relative to the main dwelling it considered that the shed structure to be retained is not domestic in nature, is not ancillary to the main residential use on the site and is not of a form and scale that integrates effectively into this rural location. The proposed development would be contrary to Objective RHO9 of the Galway County development Plan 2015-2021 as it relates to design guidance for development in rural areas, and DM standards 6 which seek to ensure the assimilation of development into the landscape, would set an undesirable precedent for other similar forms of development in rural areas and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to its design and scale of the structure and to the lack of a comprehensive justification for the scale and design proposed, it considered that the agricultural structure proposed for retention and completion is not of a form and scale that integrates effectively into this rural location. The proposed development would be contrary to Objective RHO9 of the Galway County development Plan 2015-2021 as it relates to design guidance for development in rural areas, and DM standards 6 and 33 which seek to ensure the assimilation of development into the landscape and to ensure that agricultural buildings will be of minimal scale and would therefore be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector

18th November, 2016