



An
Bord
Pleanála

Inspector's Report PL26.247372

Development	Planning permission to retain existing garage/store as constructed on site, removal of palisade fence, construction of boundary wall and all associated works
Location	Mountpleasant or Tagunнан, Mayglass, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20160528
Applicant(s)	Lar Devereux
Type of Application	Planning permission
Planning Authority Decision	Grant permission s.t. conditions
Type of Appeal	Third Party
Appellant(s)	Des McInerney
Observer(s)	None
Date of Site Inspection	1 st December 2016
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1. The site is located in a rural area on a county road just off the R739, Wexford to Kilmore Quay road. The county road connects Mayglass with the R739. There is an existing cottage on the site which has been extended in the past. The site is situated on the northern side of the road with an extended road frontage of 76.35m. There is a dwelling immediately to the west, the appellants' property, but otherwise the area is primarily in agricultural use.
- 1.2. The site area is given as 0.28ha. There is an existing 2-storey detached cottage on the site which has been extended in the past. There are two large sheds to the rear, at the western end of the site, and an enclosed compound at the eastern end. The compound is enclosed by means of a 2m high palisade fence, with a hedge along the roadside boundary. A substantial section of the front boundary wall has been removed at some point in the past and as a result there is a large hardstanding area on either side of the cottage. At the time of my inspection, the hardstand to the east was in use as a car parking area and there was a large truck parked on the western hardstand. There was also a large shipping container located beside the western boundary. The enclosed compound was in use as an external storage area with a truck, a trailer, a shipping container, several skips and plastic containers, garden rubbish, truck tyres etc.
- 1.3. The sheds are set back behind the rear wall of the cottage. The easternmost one is the larger of the two (approx. 80m²) with an 'A' pitched roof (ridge height of 5m) and is painted to match the dwelling house. The second shed, (the subject of the current application for retention), has a floor area of approx. 60m², has a mono-pitched roof with a height of 4.2m-3.4m (front to rear) and is constructed of metal cladding with a roller door. For the sake of convenience, I will refer to the former shed as 'Shed A' and the latter as 'Shed B'. It is noted that Shed B is sited on the boundary with the appellant's property to the west and abuts the side elevation of Shed A to the east. Shed A is connected to the main house by means of a rear extension.

2.0 Proposed Development

- 2.1. The main elements of the proposal are as follows :-

- retain the existing shed referred to in 1.3 above as 'Shed B' as constructed for use as storage for vintage tractors;
- Demolish remnants of masonry boundary wall at roadside and replace with new front boundary wall of blockwork, to be capped and plastered (height of 1.0m);
- removal of the palisade fence enclosing the compound and replacing it with a new timber post and rail fence;
- relocate the roadside ditch to form 900mm high soil bank (to be landscaped with native planting);
- Remove all materials from compound and return to lawn;
- Provide metal skip within compound for collection of metal scrap and provide a hedge and planting around site of skip and part of compound.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to six conditions, which were generally of a standard type, apart from conditions 2 and 6, which may be summarised as follows:

2. Removal of all unauthorised storage facilities from the site within 6 months of the grant of permission including the 2 no. shipping containers, metal skip, and implementation of landscaping proposals including removal of palisade fence and replacement with timber and post fencing.
6. The external corrugated finish of the walls of the garage shall be replaced with a napp plaster finish to match that of the house in colour, texture and finish.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.1.1 The Area Planner (Supplementary Report 6/07/16) expressed concern regarding the following issues:-

- Although the size of the shed (60m²) is within the parameters of that specified for domestic garages in the CDP, it was noted that there is an even larger shed on the site and that the combined floor area would be approx. 140m². The other existing shed does not have planning permission.
- The design and appearance of the shed is inconsistent with a domestic garage and given the proximity to and visibility from the public road, would harm the visual amenities of the area.
- There is no indication what the shed to be retained is to be used for, but given the nature of uses on the site and the information contained in the application form, it is unlikely to be ancillary to domestic use. Notwithstanding the applicant's hobby of keeping vintage tractors, it is noted that there is a CRO registered business, A & L Recovery, operating from the address.
- The provision of a metal skip within the compound, for the collection of scrap metal, was considered to be unacceptable and consistent with a commercial use operating from the site. Furthermore, there is concern that it is indicated that a new shed is to be provided within this compound but no details have been provided.
- Alterations to the means of enclosure along the roadside boundary were noted but it was pointed out that it appeared to include a new vehicular entrance. However, no detailed sightlines were proposed and this was not mentioned in the application details. Furthermore, there appears to be a vehicular entrance proposed to the compound, and it was considered that additional information would be required to clarify vehicular movements associated with the site in the interests of traffic safety.

3.2.1.2 The Area Planner recommended refusal on two grounds (28/06/16). The first reason was generally based on the view that the size, use, design and appearance of the shed would be inconsistent with the domestic use of the site, would harm the visual amenities of the area, would be contrary to the standards contained in the CDP, and would set an undesirable precedent. The second reason related to traffic hazard due to inadequate sightlines to the east.

3.2.1.3 A Supplementary Report (13/07/16) from the Senior Executive Planner expressed the view that whilst he agreed with the concerns contained in the Area Planner's

report, he was satisfied that having inspected the site and talked to the applicant that the operations being carried out regarding the vintage tractors are not commercial in nature and relate to a 'hobby', which are incidental to the enjoyment of the dwelling house. Notwithstanding this, the SEP was concerned about the accumulation of scrap in the front and side garden, the storage of oil and the creation of an additional entrance onto the public road. It was considered that FI would therefore be required.

3.2.1.4 A Request for FI was made on 8th July 2016. This required the submission of confirmation that use of the shed was for domestic purposes, a revised site layout which clearly indicates all items to be retained/provided including boundary treatment, and if a new entrance is to be provided, to demonstrate that adequate sight lines could be achieved. The FI request also sought the provision of (and details of) an impervious bund for all over ground tanks containing oils/fuels; details of a suitable area for storage of waste oil/batteries and details of a contract with a waste contractor for removal of waste oil/batteries.

3.2.1.5 A response to the FI request was submitted on 25th August 2016. This included a set of revised drawings, a letter from the applicant's Engineering Consultant and a letter from RILTA Environmental Ltd, in respect of waste oil/waste oil filter collections. The response was considered to be satisfactory by the planning authority. The RFI included the following –

- Use of garage – confirmation that it is to be for domestic use. The applicant has a keen interest in vintage tractors as a hobby and engages in vintage runs for charity. The shed is intended for the storage of these tractors.
- Revised site layout plan – includes a new front boundary wall and landscaping around the front of the house. It is confirmed that all containers are to be removed and that sightlines can be achieved without works to properties outside of the application site.
- Waste/fuel/oil storage areas – it is intended to build a bund to have capacity of 110% with impervious tanks. The maximum amount of oil to be stored on site is 25 litres.
- Waste collection – the contract with RILTA is for collection of waste oil and waste oil filters.

3.2.2. Other Technical Reports

None on file.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

- 3.4.1 Submission from third party appellant, which is similar in content to the grounds of appeal.

4.0 Planning History

- 4.1 Reg. Ref. 027794 Permission granted for extension to dwelling house 14/03/86.
- 4.2 Enf. No. 0061/2015 Enf. Notice 27/05/16 requiring removal of unauthorised shed and container from site

5.0 Policy Context

5.1. Development Plan Wexford County Development Plan 2013-2019

- 5.1.1 Site is in a rural area and is not located on zoned land.
- 5.1.2 **Objective NO3** To ensure that new development does not cause an unacceptable increase in noise levels affecting noise sensitive properties. Proposals for new development with the potential to create excessive noise will be required to submit a construction and/or operation management plan to control such emissions.
- 5.1.3 **Objective NO4** To require activities likely to give rise to excessive noise to install noise mitigation measures and monitors. The provision of a noise audit may be required where appropriate.
- 5.1.4 **Development Management Standards – Chapter 18**
- Section 18.12 Rural housing
- Section 18.13.2 Domestic garages

Section 18.29	Transport – Roads, Access/Egress, Sightlines
Section 18.32	On-site wastewater treatment
Section 18.8	Accessibility

5.2. Natural Heritage Designations

- 5.2.1 There are 14 no. European sites within 15km of the subject site. These are Wexford Harbour and Slobs SPA; Tacumshin Lake SAC and SPA; Lady's Island SAC and SPA; Ballyteigue Burrow SAC and SPA; Saltee Island SAC and SPA; Carnsore Point SAC; Slaney River Valley SAC; Long Bank SAC; Raven Point Nature Reserve SAC and The Raven SPA.
- 5.2.2 The closest Natura sites are Wexford Harbour and Slobs SPA and Tacumshin Lake SAC and SPA (approx. 5km)

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1 Commercial/industrial use of property** – no record of planning permission for a change of use to industrial/commercial use, yet for several years, the appellants have had to endure incessant noise and air pollution emanating from the unauthorised business of maintenance and repair of motor vehicles at the appeal site. The CRO records indicate that the appellant has registered a business, 'A & L Recovery' at the premises and the applicant owns at least one transporter and recently added a second transporter.
- 6.1.2 Unauthorised structures and use of site** – Both sheds are unauthorised and it is difficult to understand why the P.A. is only concerned with the smaller shed, when it is attached to a much larger shed which has never received planning permission. It is not accepted that the shed (subject of application) is being used as ancillary to the enjoyment of the dwelling house. All of these unauthorised issues should have been addressed in a single application.
- 6.1.3 Non Compliance with CPD standards** – the shed to be retained is 90m² in area and 5.35m high, which breaches the CPD standards for domestic sheds of 80m² and

5m, respectively. In addition, the design and external finish is not in keeping with the main dwelling and it is not in use as ancillary accommodation.

6.1.4 Structural stability of building – the shed has steel roof beams which are supported by 3 no. steel stanchions, and the bays are infilled by blockwork, which is not tied in to either the steel stanchions or the roof beams. Approx. 4-5 years ago, a substantial section of the blockwork wall collapsed into the appellants' property. It was then rebuilt as before without any modification to prevent a further similar collapse. The appellants' patio area is located next to the shed and they fear that it will happen again. It is submitted that the wall height exceeds the recommended height for a structure of this size and construction (as set out in the building Regs.).

6.1.5 Nuisance from nature of use – the use has resulted in extreme nuisance and stress to the appellants. The nature of the use is one which involves

- Incessant, reverberating and intermittent noise from hammering;
- Banging and grinding of metal
- Monotonous noise and diesel fumes from an air compressor;
- Noise from a fork lift truck and the starting and warming up of tractor engines;
- Vibrations from the manoeuvring of the two recovery vehicles
- Diesel fumes from these vehicles and other plant used in the business
- These activities occur on a seven day a week basis and at all hours.

6.1.6 Area Planner's recommendation to refuse supported – the area Planner had recommended refusal and this should have been agreed to by the P.A. the conclusions reached by the A.P. were objective and had been evaluated in accordance with the standards contained in the CDP. The SEP report did not contain adequate justification for over-ruling the A.P. report. It was stated that it is not surprising that the unauthorised repair works were not being conducted at the time of the SEP's site visit. The numerous complaints regarding the nuisance arising from the use do not appear to have been taken into account by the P.A.

6.1.7 Photographs – the appellant has included photographs with the grounds of appeal which show aspects of the use which it is claimed is unauthorised.

6.2. Applicant Response

6.2.1 The applicant responded on 3rd November 2016. The points made may be summarised as follows:

- The applicant has lived at this address and has been involved in the transport industry all his life. He has a registered business, which is a one-man operation.
- The only activity that he carries out on a daily basis is to “transport mainly tractors from farm to farm and from farm to workshop, e.g. main dealers like Ford in Glenmore, Co. Kilkenny”. However, he also transports small dumpers and diggers to sites for various people for a minimal fee.
- The applicant has bought a “slightly bigger truck” recently in order to “take larger machines to site” and he intends to sell the little truck that he currently operates.
- The applicant is happy to comply with the requirements, i.e. removal of the containers and palisade fence; construct a new 900mm front boundary wall, gates and landscaping; and to render the external walls of the shed. He would also be prepared to reinforce the boundary with the appellant, if needed.
- He has a keen interest in vintage tractors and is a member of a club that raises funds for charity and enjoys driving vintage tractors.
- None of the images provided with the grounds of appeal show a car or modern tractor, dumper or digger being repaired within the yard. All of the vehicles are vintage in nature. A commentary is provided in respect of each of the photographs supplied by the appellant.

6.3. Planning Authority Response

6.3.1 The P.A. responded to the grounds of appeal on 4th November 2016. The main points may be summarised as follows:

- The applicant made it very clear in correspondence with the P.A. that the operations carried out in respect of the vintage tractors was a hobby and did not constitute a commercial activity. It was also confirmed that the shed, the

subject of the application/appeal, was intended for use as domestic purposes, incidental to the enjoyment of the dwelling house.

- In light of the information from the applicant, the P.A. was prepared to consider this application in the context of a domestic use once other issues relating to the storage of materials on site had been adequately addressed.
- However, the correspondence submitted to the Board indicates that it may be that a commercial activity is being undertaken at this location. If the Board finds this to be the case, the P.A. will immediately initiate enforcement procedures against the applicant.

7.0 Assessment

7.1. The main issues arising from this appeal are considered to be as follows:

- Design and scale of shed
- Nature of use
- Design and layout of remainder of site
- Access and traffic safety
- Structural stability of shed
- Appropriate assessment

7.2. Design and scale of shed

7.2.1 Section 18.13 of the Wexford CDP sets out the development management standards for domestic garages and sheds. The criteria are that the maximum floor area and height are 80m² and 5m, respectively, that the design and finishes shall be in keeping with that of the dwelling house and that it shall only be used for purposes ancillary to the enjoyment of the dwelling house. The floor area of 'Shed B' is approx. 60m² and the stated height is 4.26m, and as such, the dimensions of this particular shed complies with the physical parameters set out in the CDP. However, it is attached to a much larger 'domestic garage' which does not have the benefit of planning permission either. The larger shed ('Shed A') has a floor area of approx. 90m² which gives a combined floor area of 150m². The stated ridge height of the A-frame roof is 5.345m.

7.2.2 It is considered that the standards set out in the Development Plan are reasonably generous and facilitate the provision of quite a substantial out-building, yet the dimensions of 'Shed A' alone exceed these standards. The building envelope of the combined structures is equivalent to a reasonably sized 2-storey dwelling. There is no attempt in the submissions to justify the need for two such sheds, of this scale, to facilitate a hobby. It is considered that the size of the combined structures is industrial in scale and is, therefore, excessive and inappropriate to this domestic setting.

7.2.3 The design and appearance of 'Shed B' is industrial or agricultural in character and appearance, with a corrugated finish and a large roller shutter door. The fact that it is attached to another large structure, with a similar appearance but different design and finish, provides for an incongruous feature, which exacerbates the effect of the industrial character of the buildings. 'Shed B' is also visible in views of the dwelling from the public road. The proposal to render over and paint the corrugated cladding to match the dwelling would improve the appearance somewhat, but would not address the issue of excessive scale and its industrial design and appearance. Although the sheds are set back behind the dwelling house, and are partially screened from the adjoining property to the west, it is considered that their combined height, scale, mass and bulk, together with their non-domestic appearance, renders the out-buildings unsuitable for this residential site. The proposed development would, therefore, seriously injure the visual amenities of the area.

7.3. Nature of use

7.3.1 The first party provided confirmation in writing to the P.A. that the shed that was proposed for retention is for domestic use, ancillary to the enjoyment of the dwelling house. This was on the basis that the owner has a keen interest in vintage tractors as a hobby. I can confirm from my site inspection that there were a number of vintage tractors stored in both sheds. In addition, there were two trucks on site, one large transporter with a trailer in front of the sheds and the other, a smaller one, which was parked within the compound. There were two large shipping containers, skips, a wide range of tractor and vehicle parts, all stored in the open areas of the site. Within the sheds, in addition to several vintage tractors, there was a vintage car and a fork lift truck.

- 7.3.2 The submissions from the third party, together with photographs, indicate that the overall use of the site is one of commercial vehicle repairs/transport business. It is stated that there is a business registered at the premises, with the CRO, as a vehicle recovery business and that the applicant operates one or two vehicle transporters from the site. The matter has been the subject of ongoing complaints to the P.A. regarding unauthorised use and nuisance in terms of excessive noise and fumes.
- 7.3.3 The first party, in the response to the grounds of appeal, has confirmed that he runs a business from the premises, that he transports tractors, dumper trucks and other vehicles to and from the site and that he owns (and operates) two trucks from the premises. With regard to the images contained in the appellants' photographs, a distinction is drawn by the first party between repairs to vintage tractors and 'modern vehicles'. However, the application/appeal that is before the Board is to retain 'Shed B' for the purposes of storing vintage tractors, which is described as a hobby. It is considered that some degree of repairs could reasonably be expected as part of such a hobby, but that this should be ancillary to the storage element, and consistent with the use as a hobby. Furthermore, it would be expected that any use of the sheds would be ancillary to the domestic use of the site. It would appear, however, that based on the submissions and what I observed on site inspection, the primary use of site could be other than residential.
- 7.3.4 The description of the use and nuisance experienced by the appellants would indicate that the use of the site is likely to be wider than purely residential with a hobby element, and more intensive than the storage of tractors with incidental repairs. As noted above, the first party has acknowledged that he runs a business which involves the transporting of vehicles, including tractors, but not exclusively, and carries out repairs on the site. The planning authority has also indicated that based on the submissions, there may be an unauthorised business operating from the site and that should the Board find this to be the case, the P.A. would proceed to instigate enforcement action.
- 7.3.5 It is considered that it is not the role of the Board to establish whether, or not, the use is unauthorised. Notwithstanding this, it is clear that the use of both the sheds and the site itself is wider and more intensive than that stated in the description of development. As such, it is considered that the grant of permission for the retention of the shed may facilitate an unauthorised use on the site. It is further considered

that the need for two large industrial sized sheds has not been justified in terms of facilitating a hobby. Given that the combined scale of the structures exceeds the development management standards for domestic sheds and that the use, which appears to give rise to considerable nuisance, could not be described as ancillary to the enjoyment of the dwelling house, it is considered that the proposed development should be refused.

- 7.3.6 Should the Board be minded to grant permission, I would draw the Board's attention to CDP Policy Objectives NO3 and NO4 which require the submission of noise management plans, including proposals to install noise mitigation measures and monitors, where proposals are likely to give rise to an unacceptable increase in noise levels affecting noise sensitive properties. As such, it would be prudent to either require further information on this matter prior to determination or to attach a condition requiring the submission of such details to the planning authority within an appropriate time frame.

7.4. Design and layout of remainder of site

- 7.4.1 The proposals contained in the further information would result in improvements to the appearance of the site and reduce the negative impacts on the visual and residential amenities of the area. In particular, the proposals to reinstate a domestic-scale front boundary wall and landscaping, together with the removal of the palisade fence, the shipping containers and the materials stored within the compound would be beneficial. There are no details of the proposed replacement fence (post and rail), which is intended to replace the palisade fence. It is noted that it is also proposed to alter the roadside boundary of the compound area by "pushing back the ditch to form 900mm high soil bank...to be landscaped with native planting". It is not clear, however, how much of the boundary is to be relocated. It is considered that the existing hedge should be retained in its current position except for the any sections required to be removed for the achievement of the necessary sight lines from the entrance on the western side of the site.
- 7.4.2 It is considered that should the Board be minded to grant permission, appropriately worded conditions requiring details of boundary treatment, fencing and landscaping, (as discussed at 7.4.1 above), to be submitted and agreed with the P.A. and in addition, a condition setting out a timescale for the removal of elements such as the

shipping containers and reinstatement of the lawn, together with a prohibition on the external storage of materials on the site.

7.5. Access and traffic safety

7.5.1 The Development Plan contains guidance and standards for the siting and design of access/egress points and assessment of sightlines (18.29.2/3). It is stated :-

“The Council will assess the detailed siting and design of each proposed access/egress point to a public road (including proposals for the intensification of use of an existing access/egress point) on its merits, having regard to the NRA DMBRAS and DRMB Road Geometry Standards, the nature of the development, the likely traffic turning movements, the circumstances on the road where access/egress is proposed and the need to minimise loss without replacement of existing hard and soft landscaping.”

The road is a county road and the required sightlines are 65m in each direction. It is acknowledged that part of the existing hedge will need to be removed to achieve adequate sightlines in an easterly direction. However, the sightlines in a westerly direction are also affected by vegetation on the boundary, which appears to be under control of the applicant. It is considered that the visibility in this direction is further hampered by the presence of a sharp bend, which does not appear to be accurately reflected in the submitted drawings. The entrance to the appellants' property is located between the proposed entrance and the said bend.

7.5.2 Given that the existing use of the site, as well as the stated purpose of the proposed shed, involves the manoeuvring of large vehicles and HGVs with trailers in and out of the site, it is considered that the sightlines in a westerly direction are likely to be inadequate. It is further noted that the proposed gateway to the enclosed compound at the eastern end of the site is located outside of the line of the proposed front boundary wall and facing in a westerly direction. This creates a second vehicular entrance, which is also likely to be used as a HGV entrance to the compound area. The sightlines in an easterly direction are extremely poor from this entrance and any manoeuvring of large vehicles to access/egress this entrance is likely to involve use of the public road space. It is considered, therefore, that the proposed development, which seems to involve alterations to one entrance and the creation of another, would give rise to a traffic hazard.

7.6. Structural stability of shed

- 7.6.1 'Shed B' appears to have been constructed with one wall comprising a concrete block wall in two panels and the remainder of the walls comprising a mixture of concrete block and corrugated sheeting, with steel and timber beams. However, it is considered that it is a matter for the Local Authority to assess whether the structure has been constructed in accordance with the Building Control Regulations.

7.7 Appropriate Assessment

- 7.7.1 The site is located approximately 3km and 5km from the closest Natura 2000 sites, namely, Wexford Harbour and Slob's SPA and Tacumshin Lake cSAC and Tacumshin Lake SPA, respectively. Given the distances involved, and that development on the site is long established, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

- 8.1. It is recommended that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the stated use of the shed to be retained for the storage and repair of tractors, and to the information submitted with the application and appeal regarding the existing use of the adjoining shed, associated hardstanding and the enclosed compound to the east of the site for the parking of large trucks, the transporting of vehicles into and out of the site and the storage of vehicle parts, the Board is not satisfied that the proposed use would not give rise to unacceptable noise and disruption to the adjoining residential property to the west which would seriously injure the residential amenities of this property and would facilitate the unauthorised use of the site as a commercial premises. The proposed development would, therefore, be contrary to the provisions of the Wexford County Development Plan 2013-2019 and to the proper planning and sustainable development of the area.

2. Having regard to the size, design and external appearance of the shed that is proposed to be retained, and to the existing shed attached to the structure, it is considered that the combined scale, mass, bulk and industrial design and appearance of the adjoining structures would result in an incongruous feature which would be out of character with the residential nature of the site and would seriously injure the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development, which involves the alteration of an existing entrance and the introduction of a second entrance, would by reason of the intensification of turning movements and the manoeuvring of heavy goods vehicles into and out of the site, at a point in the road where visibility is restricted in both directions, would give rise to a traffic hazard.

Mary Kennelly
Planning Inspector

3rd February 2017