



An  
Bord  
Pleanála

## Inspector's Report PL18.247498

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<b>Development</b>	Retention of single storey two bay steel frame building to accommodate storage, constructed soakaways, site drainage, stoned laneway and all associated works.
<b>Location</b>	Rakeeragh, Carrickmacross, Co. Monaghan
<b>Planning Authority</b>	Monaghan County Council.
<b>Planning Authority Reg. Ref.</b>	16/225
<b>Applicant(s)</b>	Patrick and Geraldine McNally
<b>Type of Application</b>	Retention permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First party.
<b>Appellant(s)</b>	Patrick and Geraldine McNally.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	26 <sup>th</sup> January 2017
<b>Inspector</b>	Deirdre MacGabhann.

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## 1.0 Site Location and Description

- 1.1. The appeal site lies c.2km north west of Carrickmacross, in the townland of Rakeeragh, Co. Monaghan. It lies to the east of a minor public road off the R178 (Carrickmacross to Shercock road). Access to the site is via a roadside gate.
- 1.2. The 0.66ha appeal site comprises a rectangular field which is in agricultural use (pasture). The site falls away from the public road and then rises. At the eastern end of the field is a two bay steel frame building finished in concrete and corrugated steel cladding. Access to the shed is via a hardcore laneway along the southern and eastern boundary of the field.
- 1.3. A residential property lies to the south of the appeal site. It is separated from it by a semi-mature hedgerow.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the retention of the following:
  - A single storey two bay steel frame building, with a ridge height of 4.682m and an area of 91sqm, to accommodate domestic storage.
  - Constructed soakaways, site drainage, stoned laneway and all associated site works,
- 2.2. The public notices state that the development uses an existing entrance on to the public road.
- 2.3. Accompanying the application for permission/retention are the following:
  - Plans showing proposed landscaping to the west of the shed.
  - Photographs showing the limited storage space available at the applicant's property in Carrickmacross.
  - Copy of warning letter issued under Section 152 of the Planning and Development Act 2000 regarding the unauthorised entrance onto the L8910 public road, shed as under construction and access lane and hardstanding area on lands at Rakeeragh.

- A copy of correspondence from the applicant to the planning authority stating that the existing entrance is exempted under the Planning and Development Regulations 2001.

### **Further Information**

2.4. In September 2016 the applicant provided further information in respect of the development, including:

- Clarification that it was not an agricultural development, but one which would be used for domestic purposes.
- Stating that the current entrance had been in use for a number of years and if it was deemed unauthorised the applicant would be unable to enter their property. Traffic in and out of the site is very low and would remain so in the future. The applicants would be willing to ensure that the front boundary hedge and trees would be kept trimmed and side banks re-graded to improve sight distances. The existing entrance is exempted development under the Planning and Development Regulations, 2001.

## **3.0 Planning Authority Decision**

### **Decision**

3.1. On the 7<sup>th</sup> October 2016, the planning authority decided to refuse permission for the proposed development on the grounds

1. The development conflicted with policies ADP6 and RDP14 of the County Development Plan (proposals for garages and domestic stores). The development is not located in the curtilage of an existing dwelling, is inappropriate in terms of design, scale, form, use of materials and size for its intended purpose. The applicant has failed to demonstrate the necessity for the size, scale and location of the development. Development would set an undesirable precedent.
2. Applicant has failed to demonstrate that the required visibility splays (80m) can be achieved in accordance with section 15.23 of the County Development Plan. The development would, therefore, pose a traffic hazard.

## Planning Authority Reports

3.2. There are two planning reports on file.

- 11<sup>th</sup> July 2016 – Refers to the characteristics of the site, observations and internal reports received. It considers the merits of the proposed development against policies of the County Development Plan and the likelihood of impacts on Natura 2000 sites. It recommends that further information be sought from the applicant in respect of compliance with policies of the County Development Plan (Policy AFP 2 and sightlines), details in respect of drainage, revised public notices and a letter of consent from the owner of the dwelling house in proximity to the shed.
- 3<sup>rd</sup> October 2016 – The report refers to the further information submitted by the applicant. It states:
  - The shed cannot be considered domestic storage as there is no domestic dwelling on the host field. The applicant's dwellinghouse is in Carrickmacross and the shed cannot be considered acceptable as a domestic store.
  - The development does not comply with policy ADP6 or RDP14 of the County Development Plan in that the development is not domestic in appearance.
  - There is no provision in Class 9, Article 9 of the Planning and Development Regulations for the opening up of a new entrance onto the public road. Even if the Regulations did permit this, the proposed development would endanger public safety by reason of traffic hazard or obstruction to road users, as the applicant has not demonstrated that adequate sight lines can be achieved.
  - Reference to Google street view indicated no access to the site in May 2009 and the applicant has not provided any evidence that an entrance was in place. It would appear that the site was originally part of a larger field that was sub-divided. Access to this larger field was from the northeastern portion of the larger field. As this constitutes a new site entrance, sight distances are required per section 15.23 of

the Monaghan County Development Plan. A description of the new entrances should, therefore, have been included in the description of the development.

- The FI request for drainage proposals has not been complied with.
- The report recommends refusing permission for the development.

### **Technical Reports**

- 3.3. The Engineer's report (15<sup>th</sup> June 2016) recommends that the applicant submit further information in respect of the achievement of sight lines and legal agreements with adjoining landowners, if necessary, to achieve these.

### **Prescribed Bodies**

- 3.4. No observations received.

### **Third Party Observations**

- 3.5. There is one observation on file from Tony and Joan McEvoy (Rakeeragh). It objects to the proposed development on the grounds that (a) it would impose on their property (less than 80m from dwelling house and on an elevated site), (b) laneway will discharge to their garden with impact on hedge, risk of flooding and impact on percolation area, and (c) inadequate sight lines which would create a traffic hazard.

## **4.0 Planning History**

- 4.1. There is no planning history in respect of the appeal site.

## **5.0 Policy Context**

### **Development Plan**

- 5.1. The appeal site falls within the administrative area of the Monaghan County Development Plan 2013 to 2019. Section 15.4 of the Plan deals with rural housing and Policy RDP14 with garages. It states:

*'Garages should be located behind the building line of the proposed dwelling, and should be reflective of it in terms of design and finishes. The scale of the*

*garage should reflect its proposed use. Where the proposed garage is in excess of 80 square metres, the onus will be placed on the applicant to justify what reasonable domestic use would necessitate the size of the garage proposed.'*

5.2. Section 15.10 of the Plan deals with alterations to dwellings and section 15.10.2 with garages/domestic stores for existing dwellings. The plan states that proposals for garages and domestic stores for existing dwellings should be subordinate to the existing dwelling and not out of character and scale with it. Policies for alterations to dwellings include Policy ADP6 which states that proposals for garages and domestic stores for existing dwellings shall comply with Policy RDP14 (above).

Section 15.23 of the Plan deals with road access standards and states '*It is the Council's policy to grant planning permission for development involving the creation of an access and/or the provision of visibility splays, only where the applicant is able to demonstrate control or the reasonable prospect of acquiring control of any land required for the provision of any access and/or visibility splays. Planning applications involving third party land must be accompanied by a written legal agreement between all parties*'. Sight distances for a new access to single or paired dwellings onto non-urban roads are set out in Table 15.31 and include the following provisions:

Minimum Required Sight Distances for Access to Single or Paired Dwellings onto Non Urban Roads Road Category	Sight distance (y) as per NRA, DMRB29	Height over ground	Distance back from edge of carriageway (x)
Local Class 2	80m	1.05m	3.0m

### **Natural Heritage Designations**

5.3. The appeal site is substantially removed from any Natura 2000 site, with the nearest site being >20km to the south east of the site (Stabannan-Braganstown SPA), see attachments).

## 6.0 The Appeal

### Grounds of Appeal

6.1. The third party appeal is made on the following grounds:

- Need – The appellants are very restricted with the amount of storage and parking space available at their residence in Carrickmacross. They would therefore like to use part of their land at Rakeeragh for storage. They have no intention of using the property for commercial or agricultural use. Given the rare nature of the application, the appellants have given adequate justification for the provision of a domestic store in a rural area.
- Use – Domestic storage would include logged timber, used by the household, and a tractor which is used in this process. It is not possible to accommodate this use within the curtilage of their dwellinghouse.
- Visual impact/impact on properties – The shed has been sited to the very rear corner of the site to the east to achieve maximum distance from existing properties and the public road. Landscaping (see landscaping plan and photomontages) will screen the shed from the public road and surrounding area. The scale and finishes of the storage shed are not out of keeping with other similar structures in the surrounding rural area. The development will not result in an unacceptable loss of residential amenity by reason of noise, smell, pollution, general disturbance etc.
- Entrance – The appellants have been using the current gated entrance for the past number of years. If the entrance is deemed unauthorised they will not be able to enter their property. Traffic in and out of the field is low and would remain so in the future. The appellants will ensure that the front boundary hedge and trees will be trimmed and side banks re-graded to improve sight distances. The entrance is exempted development under S.I. No. 600/2001 Planning and Development Regulations, 2001, having regard to Part 2, Exempted Development, Article 9(1) and Part 1, Article 6. As the public road measures 3.4m, less than the 4m mentioned in the Regulations, and the gateway complies with the conditions and limitations specified in the regulations, the site entrance is deemed exempted development. The



appellants are willing to move the entrance to the existing site further north along the public road to improve sightlines if needed. (Attach legal agreement with adjoining landowner to north).

### **Planning Authority Response**

6.2. The planning authority do not make any response to the appeal.

### **Observations**

6.3. There are no observations on the appeal.

## **7.0 Assessment**

7.1. Having regard to the appeal file and my inspection of the site, it is my view that the key issues arising in respect of the proposed development are confined to the following:

### **Principle/Compliance with Policies of the County Development Plan**

7.2. The appeal site lies within a rural area removed from the appellant's domestic dwelling in Carrickmacross. The County Development Plan requires domestic stores subject to be subordinate to the existing dwelling, consistent with the character and scale of the dwelling and located behind the building line of the dwelling (section 15.10.2 and Policy RDP14). It is evident, therefore, that the policies assume an existing residential dwelling on the site of a proposed garage/domestic store. The proposed development comes forward as a standalone domestic store which is of an agricultural scale and finish. As such it is not ancillary to any existing dwelling, is inconsistent with any residential form of development and is, therefore, inconsistent with the policies for the provision of domestic garages/stores.

7.3. Further, to permit the development would set an inappropriate precedent where all residential development in urban areas could seek independent residential storage remote from the property.

7.4. I would concur therefore with the approach taken by the planning authority and consider that the proposed development is contrary to the policies of the County Development Plan which require domestic stores, to be subordinate to the existing dwelling, and not removed from it. To permit the development would establish an

undesirable precedent for similar developments which would be contrary to the Development Plan and to the proper planning and sustainable development of the area.

### **Traffic Safety**

- 7.5. The applicant states that the access to the appeal site has been in use from some time. I note that the OSi aerial photography taken in 2005 indicates the property to the south of the appeal site, but no access to the site. Similarly, the Boards aerial photography (OSi, 2010) does not show any established access to the site in 2010. I would conclude from the above, that the access to the appeal site has been created since 2010.
- 7.6. The appellant refers to the exemptions provided by the Planning and Development Regulations 2001 (as amended). Exempted development is dealt with in Article 6 of the Regulations, which states that subject to Article 9, development set out in column 1 of Part 1 of Schedule 2 shall be exempted, provided that the development complies with the conditions and limitations set out in column 2.
- 7.7. Article 9(1)(a), de-exempts any development set out in column 1 of Part 1 (Schedule 2) if the development would (amongst other things):
- (ii). *consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
  - (iii). *endanger public safety by reason of traffic hazard or obstruction of road users*
- 7.8. The appeal site lies on a minor rural road and I would accept that the width of it is below 4m.
- 7.9. Notwithstanding this, Column 1, Class 9 of Schedule 2 refers to 'sundry works' and states that the construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway and column 2 that the height of any such structures shall not exceed 2 metres.
- 7.10. The term 'gate' typically refers to a barrier used to close an opening in a wall, fence etc. (Oxford dictionaries). Similarly, 'gateway' typically refers to an opening that can be closed by a gate. The limitation set out in column 2, that the height of any such

structure shall not exceed 2 metres, suggests that it is the structure which is being afforded exempted development. I would not infer from the Regulations, therefore, that the opening up of a new access onto the public road is exempted or that the access to the site is exempted development.

- 7.11. Regardless of the above, the appeal site lies on a minor rural road and the planning authority has sought sight lines of 80m in each direction, which would be standard for a Type 2 non-urban road, for the creation of a new access to a single or paired dwelling (which would appear appropriate given the proposed domestic use of the storage shed).
- 7.12. The access to the appeal site lies on a bend in the road. Consequently, I would estimate that it is possible to achieve an 80m sightline to the south but only c.50m to the north due to the bend in the public road and roadside vegetation. This restriction would disqualify any claim to the proposed access being exempted development.
- 7.13. The appellant states that they are willing to move the existing entrance further north along the public road to improve sightlines and they provide a legal agreement with the adjoining land owner to the north to trim or remove the roadside hedge to such an extent as is necessary to comply with any condition relating to sight distances. Whilst this may be possible, it would require extension of a sightline over the bend in the public road and the substantial removal of roadside vegetation. Further, the applicant has not demonstrated that the required sightline could be achieved.
- 7.14. In summary, I consider that (a) the existing access to the site has been put in place since 2010 and is therefore a new access to the site, (b) the access does not comprise exempted development, (c) it is not possible to achieve the required sightlines to the north of the site entrance, and (d) insufficient information has been put forward to demonstrate that a viable alternative access could be provided. I would concur with the view of the planning authority, therefore, that the additional traffic movements that would be generated by the proposed development would pose a traffic hazard (and that revised site notices would be required if the Board were minded to grant permission).

### **Other Matters**

- 7.15. I note that the observation made on the planning application raises concerns regarding the imposing impact of the proposed development on their residential

property (to the south west of the storage shed) and excess water discharging from the appeal site onto the observer's property flooding their garden and percolation area.

- 7.16. The storage shed is typical in style to that of an agricultural building. It lies c.80m to the north east of the observer's property at a higher elevation. From my inspection of the appeal site, whilst I would accept that the storage shed is visible from the observer's property I would not consider it to be overly imposing, primarily due to the distance between the buildings, its location and orientation in relation to the observer's property and screening provided along the boundary of the observer's property.
- 7.17. With regard to surface water, I noted no evident surface water drainage system on the appeal site and I would accept that surface water may run down the access laneway, from east and west, to pond at the lowest point of the laneway, opposite the observer's property, with the potential for discharge to the observer's lands in periods of heavy rain. If the Board decided to grant permission for the development, this matter could be addressed by condition.

### **Appropriate Assessment**

- 7.18. The appeal site is substantially removed from any Natura 2000 site and from any nearby watercourse. Further, the proposed development is modest in scale and form. No appropriate assessment issues therefore 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.

## **8.0 Recommendation**

- 8.1. Having regard to the above, I recommend that permission for the proposed development be refused for the following reasons.

## **9.0 Reasons and Considerations**

1. Having regard to the scale, agricultural form and intended use of the proposed development (domestic store), its location in a rural area on a site removed from any associated residential dwelling and polices of the County

Development Plan, which require domestic stores to be subordinate to the existing dwelling and reflect its design and finishes, it is considered that the proposed development would be contrary to policies of Plan, establish an inappropriate precedent for similar development and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the proposed development at a point in the public road where sightlines are limited, in particular to the north, it is considered that the additional turning movements generated would give rise to traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Deirdre MacGabhann  
Senior Planning Inspector

1<sup>st</sup> February 2017