



An
Bord
Pleanála

Inspector's Report PL18.247878

Development	Retention of single storey garage for storage and use incidental to house, retention of yard area for parking of lorries and all associated site works.
Location	Leitrim, Silverstream, Co. Monaghan
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	16/338
Applicant	Gerard Hughes
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Gerard Hughes
Observer(s)	None
Date of Site Inspection	7 th April 2017
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.1ha, is located in the townland of Leitrim, Silverstream, County Monaghan, c. 6km north east of Monaghan Town and c. 900m from the border with Northern Ireland. The site is located on the southern side of a shared private road, accessed from the N12 national road via a number of local roads. The private road is relatively heavily developed for a rural area, with a mix of one-off houses and what appear to be mushroom tunnels. It is a cul-de-sac, which terminates c. 100m north east of the appeal site.
- 1.2. The appeal site is irregularly shaped and comprises the rectangular area around the garage structure and yard for which retention permission is sought as well as the private road from the garage to the junction with the LT13002 local tertiary road. The yard and garage structure are located at the edge of the private road, while the applicant's house, which does not form part of the appeal site, is located c. 80m south of the garage structure. The land rises significantly from north to south, such that the floor level of the house is c. 8m higher than the floor level of the garage structure. The boundaries around the yard area are currently undefined to the north and east, and are defined by a post and wire fence to the south and west.

2.0 Proposed Development

- 2.1. The proposed development consists of the retention of a single storey garage for storage and use incidental to dwelling house and retention of the use of the yard area for parking of lorries and all associated site development works.
- 2.2. The garage is a rectangular structure, aligned with its long edge parallel to the road. It has a stated floor area of 130 sq m and a stated ridge height of 6.9m (I note the height is indicated as 6.5m on drawing 01-1074-03). The lower portions of the walls are concrete, with green metal cladding above and on the roof. A large roller shutter door is located on the eastern elevation, with an entrance door beside it.
- 2.3. The yard has a stated area of c. 650 sq m. It extends 15.5m to the side (east) of the garage, and 15m to the rear (south) of it. The yard surface comprises compacted stone. The applicant is also proposing to plant a native hedge and tree mix around

the boundaries of the yard area. An ACO drain is also proposed along the road edge, connecting to a concrete drain at the boundary.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Monaghan County Council decided to refuse planning permission for three reasons, which can be summarised as follows:

1. Garage is contrary to Policy ADP6 and inappropriate in this rural setting.
2. Applicant has not demonstrated to the satisfaction of the Planning Authority why the building and yard area are required in this countryside location and the development is therefore contrary to Policy CDP2.
3. Adequate visibility splays have not been demonstrated. Proposed development would endanger public safety by reason of traffic hazard.

3.2. Planning Authority Reports

3.2.1. The Planning Officer's report can be summarised as follows:

- It appears that a mushroom tunnel was previously located on the site.
- Warning letter issued, indicating that the shed and area for storage of lorries was unauthorised.
- Structures are located forward of the building line albeit at a much lower level and are not visible from public road.
- Applicant has submitted adequate justification with respect to size of shed.
- Detailed landscaping plan required in accordance with Policy LSP4.
- Garage is located on a private laneway and views of it in the wider landscape are limited, however design and location are contrary to development plan policies.
- Shed was locked on site inspections with no evidence of commercial transactions. If issues with design and location were not as prevalent, a

condition could be imposed to ensure structure is used for storage purposes only.

- There is no evidence that the laneway has been used for lorries for 12+ years. Applicant has not demonstrated that the use of the structure will not intensify vehicular movements onto the public road and has not demonstrated that adequate sightlines can be achieved.
- Development does not comply with Policies ADP6 and RDP14.
- No AA issues arise.

3.3. **Other Technical Reports**

- None.

3.4. **Prescribed Bodies**

- None.

3.5. **Third Party Observations**

- None.

4.0 **Planning History**

4.1. **Appeal Site**

4.1.1. **Reg. Ref. 14/362**

Planning application to retain and complete single storey garage for parking heavy goods vehicles and all associated site works. Application deemed withdrawn.

4.2. **Surrounding Area**

4.2.1. I am not aware of any relevant planning history in the surrounding area.

5.0 Policy Context

5.1. Monaghan County Development Plan 2013-2019

5.1.1. The site is governed by the policies and provisions contained in the Monaghan County Development Plan 2013-2019.

5.1.2. Section 15.10.2 states that proposals for garages and domestic stores for existing dwellings should be subordinate to the existing dwelling and should not be out of character and scale with the existing dwelling. External finishes of garages and domestic stores should match those of the existing dwelling. This is reflected in Policy ADP 6:

- **ADP 6:** Proposals for garages domestic stores and car ports for existing dwellings shall comply with Policy RDP14.

5.1.3. Other relevant Policies:

- **RDP 14:** 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. Car ports which are visible from the public domain will not be permitted.
- **CDP 2:** Proposals for commercial developments such as offices, retail, and services will not normally be permitted in the countryside outside settlements, except where it has been demonstrated to the satisfaction of the planning authority that it is necessary that the development be located in the countryside. Development proposals shall meet all the following criteria:-
 - It would not generate traffic of a type or amount inappropriate for rural roads, or require improvements which would damage the character of rural roads in the area.
 - It provides adequate access, car parking and manoeuvring areas.
 - It respects the scale and nature of activity in the locality.

- It will not harm the character or appearance of the countryside.
- It makes use of existing buildings or proposes buildings of good design which blend into the landscape through its design, siting, landscaping and use of materials.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal was made by Mr Gerard Hughes. The grounds of appeal can be summarised as follows:

- Development is not commercial. Applicant would be willing to accept conditions in this regard.
- Yard is used for parking lorry cabs operated by the applicant and his sons. Number of cabs ranges from three to five. Trailers are only occasionally parked in yard.
- No washing or refuelling of lorries or storage of goods occurs in yard area.
- The principal purpose of the garage is to safely store a rare 'show' lorry cab which is brought to lorry shows by the applicant and his family as a hobby. The garage is also used to store household and garden items.
- Garage is not equipped with telephone line, wastewater services or other facilities that would facilitate commercial use.
- All servicing and mechanical work for the lorries is carried out elsewhere (letter from servicing company provided).
- Garage and yard replaces mushroom house which was in place since 1995. Site is brownfield, lowest ground level on the applicant's land and was considered to be the best location in terms of visual amenity and sustainability.
- There is no over-riding pattern of development on the laneway, with buildings both close to the road and set back.

- There are virtually no medium to long range views of the site from public roads.
- Use of the yard area for parking of lorries is statute barred from enforcement (affidavits from applicant and neighbour submitted).
- If the yard did not exist, the applicant and his family would park their lorry cabs in their driveways and there would no less traffic on the laneway.
- Use of the yard for lorry cab parking is consistent with Policy CDP2.
- Garage is not at variance, and is in substantial compliance, with development plan policy.
- Significant separation distance and drop in ground level between dwelling and garage ensures no interference with character or scale. The two structures are visually distinct.
- Finishes of garage are typical of agricultural structures.
- Board precedent for outbuilding to front of dwelling (PL18.246181).
- Policy RDP14 uses the word 'should' which indicates flexibility.
- Garage is c. 175m from the public road is scarcely visible.
- Reason for refusal No. 1 incorrectly states that garage is not within the curtilage of the dwelling house.
- Siting the garage behind the dwelling would mean it having a higher ridge height than the dwelling, and manoeuvring of lorries in the vicinity of the dwelling.
- The minor maintenance work occasionally undertaken in the garage is ancillary to the primary use of the garage which is that of storage of a show lorry for hobby use and household storage.
- Case law relating to ancillary uses and the parking of commercial vehicles at a house is cited. Reference is also made to a section 5 referral (26.RL2424).
- The garage does not generate a requirement to provide sight lines since the development does not involve the creation of an access or the provision of

visibility splays. The access point is existing and will continue to be used by lorries whether or not permission is granted.

- Driver eye-height in a lorry cab is higher than a car, with improved visibility. This allow 3 x 50m sight distances to be achieved. There is no record of any crashes at this location.
- House built to east of appeal site has legal agreement in place to trim/face the hedge at the junction of the laneway and local road to ensure adequate sight lines.

6.2. **Planning Authority Response**

- None.

6.3. **Observations**

- None.

7.0 **Assessment**

7.1. I consider that the key issues in determining the appeals are as follows:

- Compliance of garage with Development Plan policies.
- Nature of use of the yard.
- Visual Impact.
- Access and Traffic.
- Appropriate Assessment

7.2. **Compliance of Garage with Development Plan Policies**

7.2.1. The first reason for refusal was that that the proposed development would be contrary to Policies ADP 6 and RDP 14 of the County Development Plan. Policy ADP 6 states that proposals for garages and domestic stores shall comply with Policy RDP 14, which requires garages to be located behind the building line of the dwelling and to be reflective of the dwelling in terms of design and finishes. The scale of the

garage should reflect its proposed use and where it is in excess of 80 sq m, the onus will be placed on the applicant to justify what reasonable domestic use would necessitate the size of the garage proposed.

- 7.2.2. The applicant has provided photographs of the interior of the garage and contends that the use of the garage is ancillary to the main dwelling, with its principal function being for the storage and upkeep of a 'hobby' lorry cab, which the applicant does not use for commercial purposes but brings to lorry shows. The applicant states that the garage is also used for the storage of household items, gardening equipment etc. as well as for the undertaking of minor odd-jobs to lorry cabs, such as changing light bulbs, inspections, wheel pumping etc. I note that the photographs provided by the applicant show two tractors in the garage in addition to the 'show' lorry cab. Having regard to the size of the garage, which has a floor area of 130 sq m, I consider it excessive for reasonable domestic use, as outlined in Policy RDP 14.
- 7.2.3. In their first reason for refusal, the Planning Authority did not consider that the garage is located within the curtilage of an existing dwelling. The applicant contends that it is within the curtilage of his dwelling, in that it is used to serve the purposes of a house in some necessary or reasonably useful way.
- 7.2.4. The applicant's house, as with the houses to the west, is significantly set back from the road and features boundaries extending from the houses to the road and a long driveway. While the garage is located c. 73m from the applicant's house, and is visually separated from the house by the incline of the site and the planting around the house, I consider it reasonable to conclude that the garage is within the curtilage of the house, having regard to the nature of its use, its shared access with the house and the fact that the garage, house and the intervening land are all within the ownership of the applicant.
- 7.2.5. However, while I accept the applicant's argument with regard to the location of the garage within the curtilage of his dwelling, I consider that it is a visually intrusive structure that does not reflect the dwelling in terms of design or materials, and which combined with its location in front of the building line of the dwellings along the private road results in a structure that is contrary to Policies ADP 6 and RDP 14 of the Development Plan.

7.3. Nature of Use of the Yard

- 7.3.1. With regard to the nature of the use of the yard, and whether it is ancillary to the residential use of the site, the applicant has submitted two affidavits regarding the use of the yard area by the applicant and his three sons for the parking of lorries for a period in excess of 12 years. The applicant and one of his sons live in the house immediately to the south of the appeal site, a second son lives in a house to the west of this and the third son lives elsewhere. The applicant states that the number of lorries he and his family park at the yard area can range up to five. The applicant states that no servicing, refuelling or powerwashing of the lorries occurs on site and has submitted a letter from a truck servicing company located in Co. Armagh, confirming that they carry out all regular servicing and mechanical work for the applicant and his sons. Letters are also provided from two transport companies, stating that their trailers are not taken to the applicant's site, although I note that while the letter from Morgan McLernon states that the bringing of trailers to the applicant's site "would never happen", the applicant states that this happens occasionally.
- 7.3.2. The applicant makes reference to a referral (Ref. PL26.RL2424), where the Board decided that the parking, washing and re-fuelling of two limousines and a mini-bus at a dwelling was not development. Having regard to the physical size of lorry cabs and trailers, I consider that referral cases 24.RL2135 and 24.RL2161 (both cases are related to the same site) are also of relevance. In those cases, the Board found that the parking of two oil delivery trucks on a residential site constituted a material change of use of the land because it was not a use incidental to the enjoyment of the dwelling as such, having regard in particular to the fact that the driver of only one such vehicle was resident in the dwelling on site.
- 7.3.3. On the date of my site inspection there was one van and no lorries parked at the appeal site. The garage structure was locked and there was no evidence of any commercial activity underway at that time. However, having regard to the parking of lorry cabs at the yard by persons other than those resident in the dwelling within whose curtilage the yard is located, and the parking of trailers at the appeal site, I consider that a material change of use can be considered to have occurred, and that the provisions of Policy CDP 2 of the Development Plan are therefore of relevance. I

am not satisfied that it is necessary for the regular parking of up to five lorry cabs and the occasional parking of trailers to occur at this rural site and I consider that the development is contrary to Policy CDP 2, in that it does not respect the scale and nature of activity in the area and it harms the character and appearance of the countryside.

7.4. Visual Impact

- 7.4.1. While the garage structure is located on a private road and is not noticeable from the nearest public road, there are a total of nine houses that utilise the private road for access, only two of which are located within lands identified as being within the ownership of the applicant. I therefore consider that the potential visual impact of the development should be considered as if it were located on the public road.
- 7.4.2. The garage structure is 6.9m high with a floor area of 130 sq m, and due to its materials and large roller shutter, it resembles a small industrial/commercial unit or an agricultural structure rather than a domestic garage that is ancillary to a residential unit. The adjacent yard area is extensive in scale (650 sq m) and is immediately adjacent to the roadway with no screening provided. While the applicant is proposing to provide a native hedge and tree mix around the yard area, I do not consider that it will significantly mitigate the visual impact of the garage, due to its proximity to the roadway.
- 7.4.3. I consider that the garage and yard area, by reason of their scale, design and location at the road edge, significantly in front of the building line of the dwellings along the private road, are visually obtrusive, out of character with development in the vicinity and overly dominant in this rural environment.

7.5. Access and Traffic

- 7.5.1. The third reason for refusal was that visibility splays of 50 metres x 3 metres at the junction of the appeal site and the LT13002 local tertiary road had not been demonstrated as being achievable and that the proposed development would therefore endanger public safety by reason of traffic hazard. The applicant's grounds of appeal contend that the proposed development does not involve the creation of an access or give rise to a requirement to provide sight lines. The applicant contends

that the access is existing and that lorry cabs will continue to either park on the yard area or in driveways regardless of whether planning permission is granted, since it is considered to be immune from enforcement action. The applicant also contends that the sight distances are adequate with regard to the raised seating position in a lorry cab and that there is no record of any collisions in the vicinity.

- 7.5.2. I noted on my site inspection that while adequate sightlines are achievable to the north, those to the south are not adequate. The private road, at its junction with the LT13002 public road, has yellow hatching to encourage vehicles to position themselves centrally to enhance visibility. However, the sightline to the south is significantly obstructed by a hedge located within the boundary wall of a property located at the junction. The applicant has submitted a copy of a planning permission (Reg. Ref. 11/381) for a separate dwelling located on the private road to the east of the appeal site, condition 5(b) of which states that a sight distance of 50 metres shall be provided at this junction. The applicant has also submitted a copy of a legal agreement that was submitted with that planning application (Reg. Ref. 11/381), which purports to allow for the trimming of the hedge to provide adequate sightlines.
- 7.5.3. Notwithstanding the legal agreement and planning condition submitted by the applicant, the hedge has not been adequately trimmed, with the result that an adequate sightline to the south was not in place on the date of my site inspection.
- 7.5.4. The applicant is seeking retention permission for the garage structure and for the use of the yard area for lorry parking and has included the private road up to the junction with the public road in the red line site boundary. Therefore, regardless of the length of time that the yard area has been utilised for lorry parking without the benefit of planning permission, the issue of traffic hazard and safe access/egress must be considered in assessing this appeal in my opinion.
- 7.5.5. While the seating position in a lorry cab may be higher and therefore offer greater visibility, the issue of inadequate visibility will remain a traffic hazard for any cars travelling on the public road or the private road at the time that the lorry is making its turning movement. In this regard I note that the private road is utilised by a total of nine houses. Having regard to the use of the yard by up to five lorry cabs and occasional lorry trailers, I consider that the proposed development will give rise to a significant amount of truck movements and will result in a traffic hazard due to the

inadequate sightline to the south and the potential conflict between lorry and car movements that could arise. Therefore, regardless of the length of time that the applicant and his family have been parking lorries at the appeal site, I recommend that retention permission be refused on the basis of traffic hazard.

7.6. Appropriate Assessment

- 7.6.1. The only designated Natura 2000 site within 15km of the appeal site is the Slieve Beagh Special Protected Area (Site Code 004167) which is c. 12.5km to the north west of the appeal site. The conservation objective for this SPA is to maintain or restore the favourable conservation condition of the Hen Harrier (*Circus cyaneus*) which is the sole bird species of Special Conservation Interest identified for the site. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and the distances 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.

8.0 Recommendation

- 8.1. I recommend that planning permission should be REFUSED for the reasons set out below.

9.0 Reasons

1. The development proposed to be retained does not comply with Policy RDP 14 of the Monaghan County Development Plan 2013-2019 by reason of its scale, incongruous design, finishes and its position forward of the building line of the related dwelling, and is therefore contrary to Policy ADP 6 of the Development Plan, which requires proposals for garages for existing dwellings to comply with Policy RDP 14. The development is out of character with the pattern of development in the vicinity, would set an undesirable precedent for other similar developments and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the development proposed to be retained would endanger public safety by reason of traffic hazard because of the traffic turning movements the development would generate on a local road at a point where sightlines are currently restricted in a southerly direction.

Niall Haverty
Planning Inspector

3rd May 2017