



An
Bord
Pleanála

Inspector's Report PL.09.248194.

Development	Retention of alterations to ground level, agricultural shed and all associated site works.
Location	Lughill, Monasterevin, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	16/714.
Applicant(s)	Liam Reidy.
Type of Application	Retention.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Pat Cleary.
Observer(s)	None.
Date of Site Inspection	24 th May 2017.
Inspector	Susan McHugh.

1.0 Site Location and Description

- 1.1. The site forms part of a farmyard complex, located approximately 3km to the south of Monasterevin and 2km northwest of Kildangan in the rural townland of Lughill. The site, whilst located just south of the M7, is accessed via a local road off the R-417.
- 1.2. The landowners house is located on the landholding to the east of the existing farmyard and agricultural sheds. There is an independent access serving the dwelling. The site is bounded to the east and north by existing trees and hedgerows. Ground levels slope from north to south, and west to east.
- 1.3. The farmyard is accessed via a laneway which serves a number of houses. There are six other sheds on the site associated with the farm. The shed to be retained is not readily visible from the adjoining public roadway.
- 1.4. Whilst the area is rural in character the area is obviously under pressure for one-off housing given the level of development in the immediate area.

2.0 Proposed Development

- 2.1. The applicant is seeking permission for retention of alterations to ground levels, and retention of an agricultural shed, where a former shed was located, within a farmyard which extends to 0.6ha.
- 2.2. Ground levels in the immediate vicinity of the shed have been raised by approx.1m in order to match existing ground levels on site. There is a consequent drop in site levels relative to the adjoining fields to the east and north.
- 2.3. The shed to be retained has an area of 122sqm. and is 5.15m in height. It is finished in green cladding over a low precast wall and includes high level clear cladding in panels on the east and west elevations. The entrance is located on the south elevation and comprises large sliding doors. There are no drains within the structure and surface water runoff is collected to the rear, northern boundary.
- 2.4. Evidence in relation to the nature of the ground fill on file demonstrates that it comprises quarry stone only. The applicant has supplied correspondence from Teagasc outlining that the shed is required as a grain store only.

2.5. A further information submission also clarifies the source of the fill material and proposals to upgrade the existing laneway.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the above described development subject to 12 conditions including:

Condition 1	Compliance with plans and particulars.
Condition 2-3	Effluent, soiled water and solid waste, storage and disposal to be in accordance with European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2014.
Condition 4 and 6-8	Storm water discharge requirements.
Condition 5	Protection against spillage from overground oil and chemical storage tanks.
Condition 9	Sightlines to comply with DMRB.
Condition 10	Permission restricts use for agricultural purposes only, not including housing of animals or for commercial purposes.
Condition 11	Irish Water connection requirements.
Condition 12	Section 48 contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports (dated **30/08/16** and **03/03/17**). Basis for the PA decision.

Include:

- That the site is accessed via a lane and the shed is not readily visible from the adjoining roadway.

- That the agricultural shed is located within an existing working farm yard, and is clad in dark/green/black profiled metal sheeting and has an overall height of 5.1m.
- Recommends a request for further information on the nature of the fill material used and proposals to upgrade the private lane off which the site is accessed.
- Note Appropriate Assessment screening and conclusion that Stage 2 AA not required.

3.2.2. Other Technical Reports

- **Environmental Section** - The first report 18/08/2016 had concerns in relation to the fill material used to raise ground levels. Further information was sought requesting the digging of trial pits in the presence of an Environmental Overseer from the planning authority.

Following receipt of further information, the second report dated 27/02/2017, had no objections subject to conditions in relation to the collection, storage and disposal of effluent, soiled water and solid wastes, discharge of storm water, and that chemical storage tanks to be adequately bunded.

- **Environmental Health Officer** – No objections.
- **District Engineer Report** dated 10/08/2016 – recommends that the development is premature pending improvement works to the private lane off which the site is accessed.
- **Transportation Report** - No objection subject to conditions.
- **Compliance Report** – No objections subject to conditions
- **Water Services** – No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water – No Objections

3.4. Third Party Observations

One submission was received from the neighbouring property. The objections to the proposal received by the Planning Authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those in the 3rd Party appeal summarised in section 5 below.

4.0 Planning History

UD 6766 Warning letter issued by the Council in respect of the proposed works.

5.0 Policy Context

5.1. Kildare County Development Plan 2017-2023

The Kildare County Development Plan is the statutory development plan for the area.

Section 10.4.1 deals with agricultural development.

5.2. Natural Heritage Designations

The River Barrow and River Nore SAC (Site Code 002162) is located 1.64km to the west.

6.0 The Appeal

6.1. Grounds of Appeal

The 3rd Party appeal against the decision to grant retention permission by the planning authority has been lodged by Pat Cleary. The grounds of the appeal can be summarised as follows:

Drainage and Waste Disposal Issues

- No details of any adequate drainage run-off or catchment holding tanks were submitted, particularly for the large sloped concrete area where livestock will be housed, during the winter months.
- Notes the sites proximity to outfall leading to the river Barrow.
- Non-compliance with Good Agricultural Practice for Protection of Waters Regulations 2014.
- The applicant has not demonstrated that he has adequate land suitable for spreading of solid waste, effluent and soiled water with capacity to retain and neutralise this material during periods of wet weather.
- No details of any proper bunding has been detailed or agreed with Local Authority or Department of Agriculture, Food and the Marine (DAFM).

Shed to be Retained

- Has been constructed on a raised site using imported quarry stone. The planning authority are aware that imported material was used, yet failed to source the origin of this material.
- No details of how the structural stability of this shed can be certified or guaranteed, given its size and height.
- May have been constructed in a manner that was structurally deficient.
- Constructed using recycled material, like the previous shed, with no adequate certification of origin or quality.
- As an adjoining landowner, does not want any debris ending up on this property.

6.2. Applicant Response

The applicant responded to the appeal as follows;

- The existing agricultural building will be used for the holding of fodder only, and is not suitable for the housing of livestock, as it was not designed for that purpose.

- There will be no soiled waste, effluent or soiled water, and therefore no need to agree details with the planning authority or the Department of Agriculture, Food and the Marine.
- Adequate surface water drainage provided.
- Details in relation to the source of fill used has been supplied to Kildare County Council Environment Section and they have deemed the matter closed.
- Details of company which supplied the A frame building.

6.3. **Planning Authority Response**

- No further response.

6.4. **Observations**

None.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Use of the shed
- Alterations to ground levels
- Structural Issues.
- Drainage / Waste Disposal
- Appropriate Assessment

7.2. Use of the shed

The nature of the use of the shed to be retained is the crux of this appeal. The appellant asserts that the shed will be used for the housing of livestock during the winter months. However, as indicated at section 2.0 above, the application documentation, that includes supporting correspondence from Teagasc, explains that the use of the shed is for the storage of animal feed.

I can confirm from my site inspection, that the shed is currently in use for the storage of large bales of hay. Furthermore, the applicants appeal submission explains how the shed is not suitable for the housing of livestock. In particular, it is noted that the shed has no ventilation, a solid floor, no water supply, low walls internally and a roller door which would render it unsuitable to house animals. I am satisfied given the nature of the design of the shed that it is only suitable for the storage of dry materials. I recommend that the nature of the use can be dealt with by way of condition.

7.3. Alterations to Ground Levels

The application also relates to the retention of alterations to site levels, specifically an area of hardstanding in the north eastern corner of the yard on which the subject shed is constructed.

This area adjoins agricultural fields to the east and north and there is a drop in site levels of approx. 1m to the land to these fields. The forecourt to the shed slopes across the farmyard to the east and south.

The appellant asserts that the source of the fill material comprised imported quarry stone. The application documentation includes correspondence from Fisherstown Construction Ltd, Ballybrittas, Portlaoise, Co. Laois confirming that quarry stone was supplied by them and confirmation from the applicant that quarry stone only was used.

The nature of this fill material was the subject of the further information request. The applicant was required to prepare trial pits at 20 metre intervals in the presence of an Environmental overseer. This was carried out to the satisfaction of the Environment section of the planning authority. The applicant also submitted details in relation to the chronology of building works. The schedule provided also indicates the re-use of demolished building materials (stables and cattle crush).

I am satisfied that the details relating to fill material used to raise ground levels are adequate and that there is no obstacle, on this basis, to granting permission for retention.

7.4. Structural Issues

The appellant has raised concerns in relation to the method of construction of the shed and its structural stability. While strictly speaking not a planning matter the applicant has submitted correspondence from the building supplier clarifying that it was fabricated to appropriate industry specifications. From my inspection the building appeared to be finished with new material and to a high standard.

I conclude that there is no substantive basis to this ground of appeal.

7.5. Drainage / Waste Disposal

The submitted site plan shows the existing surface water drainage arrangements for the appeal site. These arrangements consist of a soak hole to the forecourt of the shed and within the area of fill to be retained.

The appellants concerns in relation to these matters are predicated on the use of the shed to house livestock. However, as indicated at section 7.2 above, I am satisfied that the shed is only suitable for the storage of dry materials. There will, therefore, be no soiled waste/soiled water arising. In this connection it is considered that the planning authority's conditions no. 2 and 3 are not relevant. It is also noted that condition no. 5 relating to matters which do not part of this application are not relevant.

7.6. **Appropriate Assessment**

Having regard to the nature and scale of the development proposed for retention, being a shed for the storage of dry goods only and associated minor ground works, and to the nature of the receiving environment, 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 granted subject to conditions for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to the nature of the development proposed for retention, which is required in connection with a working farm and its location in a rural area, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the amenities of the area, would not be prejudicial to public health and would, be in accordance with the proper planning a sustainable development of the area.

10.0 **Conditions**

1. The development shall be retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The shed shall be used for agricultural purposes only, excluding the housing of animals.

Reason: In the interests of environmental protection.

3. All uncontaminated roof water from the building shall be collected and discharged in a sealed system, to adequate soakpits.

Reason: In the interests of environmental protection and public health.

4. The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Susan McHugh
Planning Inspectorate

1st June 2017