



An  
Bord  
Pleanála

## Inspector's Report 248981

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| <b>Development</b>                  | Retention of workshop, portocabin, modifications to front vehicular access gate and associated site works. |
| <b>Location</b>                     | Rossmanagher, Sixmilebridge, Co. Clare   |
| <b>Planning Authority</b>           | Clare County Councils  |
| <b>Planning Authority Reg. Ref.</b> | P17/81   |
| <b>Applicant(s)</b>                 | David O'Donnell  |
| <b>Type of Application</b>          | Retention  |
| <b>Planning Authority Decision</b>  | Grant subject to 7 conditions.   |
| <b>Type of Appeal</b>               | Third party against decision   |
| <b>Appellant(s)</b>                 | Eoin Nash and Rupert Bagnall   |
| <b>Observer(s)</b>                  |  |
| <b>Date of Site Inspection</b>      | 29/11/17   |
| <b>Inspector</b>                    | John Desmond   |

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## 1.0 Site Location and Description

- 1.1. The application site is situated within the rural countryside in southeast County Clare, c.9km northwest of the built up area associated with Limerick city, c.4km east of Shannon, and about 2km from Sixmilebridge (to the north) and Cratloe (to the southeast). The area contains a significant density of one-off housing along the rural road network. The nearest settlement is an isolated suburban housing estate defined as a 'cluster' (the under the Clare County Development Plan) c.1km to the west.
- 1.2. The application site has a stated area of 1.4ha. The site extends 215m south from the entrance to the local rural road. The entrance is between two one-off houses. The site is undulating, with the dwelling located on a ridge above the road level, the land declining by several metres to the rear and before rising to another (lower and vegetated) ridge parallel to the road before dropping off by a few metres to the south. The site is bounded by a mix of traditional field boundary hedging and timber post and rail fencing. The southern ridge is covered in mature scrub and trees of modest height.
- 1.3. The southernmost area of the site appears to have been recently cleared, with hardcore loose aggregate material put in place. A metal clad warehouse structure (192-sq.m stated GFA and 4.81m stated ridge height) has been erected at the southern end of the site, with a separate single storey portocabin structure (17.4-sq.m stated GFA and 2.776m stated height) c.12m to the east. An access road has been constructed from the site entrance through to the structures at the southern end of the site. The site is well maintained and the shed structure is neatly organised within.

## 2.0 Proposed Development

- 2.1. It is proposed to **RETAIN** the following:
  - Workshop
  - Portocabin
  - Vehicular entrance

- And associated site works

No amendments made in further information submission of 13/06/17.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

To GRANT permission subject to 7no. conditions. The following conditions are relevant:

No.3 – limits use to applicant's business only, with no retail for visiting members of the public and no change of use without consent of the PA.

No.5 – hours of operation limited to between 8am to 6pm.

No.6 – no advertising on site.

No.7 – requires all materials to be stored internal to the buildings on site.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The first report of the Planning Officer (04/04/17) recommended that further information be sought in respect of the Council's rural-based local enterprise policies (s.6.3.17), the number employees and frequency of deliveries, how waste products are disposed of, material alterations that may be required to comply with fire and disability access certification, and nature of the portocabin use.

The second report of the Planning Officer (07/07/17) recommended permission be granted subject to 7no. conditions consistent with the decision of the Planning Authority.

##### **3.2.2. Other Technical Reports:**

Fire Officer – Report of 21/06/17 recommends that further information be sought on technical details of the premises having regard to compliance with Building Regulations (B1, B4, B5 and G2).

AA Screening Report (C. Brislane, 05/07/17) – No potential for significant effects to European sites.

### 3.2.3. Observations

Two observations were received from Eoin Nash and Robert G. Bagnall, in addition to representations from Pat Breen TD and Councillor PJ Kelly. The main points of the observations are repeated in the appeal and are summarised below.

## 4.0 Planning History

### On site

**UD16-00132:** Enforcement file opened in respect of alleged unauthorised commercial shed (joinery business), signage, vehicular access and driveway.

### In vicinity

**P11/155:** Permission **GRANTED** (13/11/11) to Diarmuid Nash for the erection of a dwelling house, garage, wastewater treatment system and percolation area, with ancillary works, on lands adjacent to the east of the current application site and to the rear of the line of dwellings fronting onto the public road. Not constructed.

**P09/112:** Permission **GRANTED** (30/03/09) to Eoin Nash for the erection of a new dwelling house, garage, advanced wastewater treatment system and soil polishing filter on adjacent land to the east, fronting onto the public road. This development would appear to have been completed.

## 5.0 Policy Context

### 5.1. Development Plan

Clare County Development Plan 2017-2023

S.6.3.17 Rural Enterprise – [...] There is also a growing trend for the development of small workshops, some of which are located within the confines of existing houses, in rural areas. Clare County Council will seek to accommodate these wherever possible subject to normal planning considerations, including the suitable expansion of existing facilities.

Proposals for other small-scale enterprise in rural areas will be considered on their individual merits, including:

- the nature of the activity;
- where the workforce is likely to be sourced;
- evidence that its scale is appropriate to a rural area;
- evidence that the enterprise would not be viable on industrial or commercially zoned land in towns and villages nearby;
- evidence that a suitable site is available.

Rural Enterprises Objective CDP6.20 – It is an objective of the development plan to support rural enterprise and the rural economy by: [...] (b) supporting and facilitating proposals for new small-scale rural enterprises or extensions to existing small-scale, rural-based, indigenous industries subject to compliance with appropriate planning and services requirements.

S.10.3.2 Economic Development in Rural Areas – [...] The Commission [for the Economic Development of Rural Areas] recommends the development of a Rural Town Stimulus Programme that focuses on rural towns / villages and their hinterlands...[which] will facilitate a collective approach to identifying, valuing and building a town's resources and distinctiveness.

Rural Economic Development Objective CDP10.1 – It is an objective of Clare County Council (a) to work .... to implement the recommendations of the CEDRA Report on 'Energising the Rural Economy'; (b) to promote and support the development and implementation of a Rural Town Stimulus Programme to support the regeneration and economic growth of rural areas of County Clare.

Map H11 Areas of Special Control – Rural Area under Strong Urban Pressure

## 5.2. **Natural Heritage Designations**

European sites within c.15km include:

004077 River Shannon and River Fergus Estuaries SPA

001013 Glenomra Wood SAC

000064 Poulagordon Cave (Quin) SAC

000030 Danes Hole, Poulnalecka SAC

002319 Kilkishen House SAC

002316 Ratty River Cave SAC

002279 Askeaton Fen Complex SAC

002165 Lower River Shannon SAC

000174 Curraghchase Wood SAC

000051 Lough Gash Turlough SAC

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The main points of the joint appeal by Eoin Nash and Rupert G. Bagnall may be summarised as follows:

- County Development Plan policies CDP 6.20, CDP 10.1 and CDP 10.2 are inconsistent with the NSS and the RPG and with other policies in the Plan, such as chapter 3 stressing the need for balanced growth.
- The development on unzoned lands, within zone 1 with its high level of population growth, having regard to the strategic aims of the plan concerning balanced growth and Shannon and small towns as drivers of growth and as service centres.
- It is not justified by s.6.3.17 of the Plan as it is not a small workshop and is not located within the confines of an existing house.
- Disputes that there is evidence that the enterprise would not be viable on industrial or commercially zoned lands in towns or villages nearby – there is plentiful such zoned lands vacant in towns and villages in the vicinity.
- The proposed development is not a resource based industry, a rural indigenous industry, or reuse of a vacant or derelict building justified under policy CDP6.2.

- The proposed development is not justified under policy CDP10.1 Rural Economic Development, to implement the recommendations of the CEDRA Report. CEDRA stresses the importance of the development of rural towns as agents of growth.
- The proposed development is not justified under policy CDP 10.1 as it is unrelated with farming and it is not an incubator unit.
- The ownership or potential ownership of the land does not constitute justification of the development.
- The development is not justified by demand for the products locally as this demand can be served from a settlement on zoned lands.
- That the applicant resides at the property and needs to be in the area as the only carer for his mother is not justification for the development.
- Inability to afford to rent a property elsewhere to accommodate his business is not justification for the development.

## 6.2. Applicant Response

None received within the prescribed period.

## 6.3. Planning Authority Response

The Planning Authority requests that its decision be upheld. In addition to points already made in the Planner's report, the main points of the response to the appeal may be summarised as follows:

- The land surrounding the site is / was subject to S47 sterilisation agreements.
- The proposal is supported by objective CDP6.20 (b) of the County Development Plan.
- There will be no residential disamenity in terms of noise, traffic, light or visual due to the separation distance to the nearest dwellings.
- There is no visual disamenity due to the characteristics of the site.



## 7.0 Assessment

The main issues arising in this case may be addressed under the following headings:

- 7.1 Policy / principle
- 7.2 Impact on residential amenities
- 7.3 Visual impacts
- 7.4 Environmental impacts
- 7.5 Appropriate Assessment

### 7.1. Policy / principle

- 7.1.1. The proposal is for the retention of a workshop and a portocabin structure, vehicular entrance and associated site works accommodating a single-person cabinet maker and joinery workshop operation.
- 7.1.2. S.6.3.17 Rural Enterprise of the Development Plan 2017-2023 seeks, wherever possible, to accommodate the development of small workshops (including those located within the confines of existing houses) in rural areas subject to normal planning considerations. It also allows that other small scale enterprises will be considered on their own merits subject to provision of justification for need and location by the applicant.
- 7.1.3. It is the policy of the Council (Rural Enterprises Objective CDP6.20(b)) to support rural enterprise and the rural economy by supporting and facilitating proposals for new small-scale rural enterprises or extensions to existing small-scale, rural-based, indigenous industries subject to compliance with appropriate planning and services requirements.
- 7.1.4. The Plan does not define rural enterprise, workshop or small workshop and its policy on such development is therefore somewhat ambiguous. Based on the further information request that issued requesting the applicant to provide justification for need and location, it can be assumed that the Planning Authority did not consider the development to fall within the scope of '*small workshop*' but rather within the scope of '*other small scale enterprises*' (as referred to in s.6.3.17).

7.1.5. There are five points on which the Planning Authority considers the merits of such development under sS.6.3.17m, against which the applicant's further information response (of 13/06/17) may be reviewed

- the nature of the activity – the applicant has not provided justification on this ground and the development is not tied to its location;
- source of workforce – the applicant is the sole worker and he lives on the site, but the development is not justified on the basis of the local workforce;
- evidence scale is appropriate to a rural area – this is a small scale enterprise;
- evidence that it would not be viable on industrial or commercially zoned land in towns and villages nearby – it is not a relevant consideration that the applicant can't afford to pay rent for a zoned site due to the expenditure of carrying out the development (without the benefit of planning permission); the customer catchment identified by the applicant could be as easily served through a site located within either of the main urban centres or the rural towns / villages within the vicinity.
- evidence that a suitable site is available – the site is available and in use. There is nothing to suggest that the site is not suitable, but the Plan does not define suitable. That the site is on family land on which he lives (adjacent to the application site) and intends to live for the foreseeable future and that he is the sole carer for his mother who lives adjacent the site is of questionable relevance to this case.

The Planning Authority considered the development proposed for retention to be justified on the basis of the FI submission.

7.1.6. The site is located within an area identified as a rural area under strong urban pressure on Map H11 Areas of Special Control of the Development Plan. This rural area is situated to the northwest of Limerick city (c.9km) and to the east of Shannon town (c.4km), with numerous rural settlements (with defined settlement boundaries) in the vicinity of the site, including Sixmilebridge to the north (c.2km), Cratloe to the southeast (c.2km) and Bunratty to the south (c.1.2km), in addition to a defined rural cluster to the west (c.1km). There is widespread one-off rural housing in the vicinity and extending along much of the rural road network. However, the areas of special

control relate only to the development of rural housing, with no particular restrictions imposed on development, of the type proposed to be retained.

7.1.7. I would question the sustainability of permitting such enterprises across in rural areas in effectively an unplanned, developer led manner, rather than directing them into zoned lands within planned rural or urban settlements, as would better align with the strategic planned approach recommended in the 2014 report of CEDRA<sup>1</sup> supported by the Development Plan (under s.10.3.2 Economic Development in Rural Areas and Rural Economic Development objective CDP10.1). However, on the basis of s.6.3.17 and Council policy under Rural Enterprises Objective CDP6.20(b)), I consider the development proposed for retention to be acceptable under the statutory development plan.

## 7.2. Impact on residential amenities

7.2.1. There are residential dwellings to the north and west of the application site, within 170-200m of the shed structure proposed for retention. The applicant runs a joinery business from the premises. There may be a risk of disamenity from the onsite operations, including high-pitched noise from electric saws and from deliveries to and from the site. Whether these would prove a nuisance would depend on the scale and intensity of the operations. Based on the business being a single-person operations, with deliveries to/from the site carried out by that person (as indicated in the FI submission), the intensity of the operations can be seen to be low and therefore the potential impacts would be low. The potential impacts would also be mitigated by containment within the large shed structure.

## 7.3. Visual impacts

7.3.1. The development is well-screened from the surrounding lands due to its relatively low elevation within a gently rolling landscape, its setback from the public road and the presence of mature trees and shrubbery surrounding its location. No significant adverse visual impacts would result.

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<sup>1</sup> *'Energising Ireland's Rural Economy'* (2014)  
<https://www.socialjustice.ie/sites/default/files/attach/publication/3377/2014-04-14-cedrareport.pdf>  
(accessed 20/12/17)

#### 7.4. Other issues

- 7.4.1. The commercial structures contain no sanitary services. It is not clear that it has any water supply. The applicant submits that he uses the facilities at his residence adjacent the application site. As this is a single person's operation within the property associated with his place of residence, I consider this acceptable given the small scale of the operations, subject to the imposing of appropriate restrictions by condition. The relevant dwelling is not indicated on the plans or encompassed within the red or a blue line boundary to indicate lands under the applicant's control. Having inspected the site, I note that the dwelling to the northwest is not separated from the application site by any boundary feature and therefore it is reasonable for the Board to assume that this is the dwelling referred to by the applicant.
- 7.4.2. Should the Board decide to grant permission for retention, it may consider it appropriate to attach a condition prohibiting the separation of the business operation from the ownership and residence of the dwellinghouse and to prohibit any intensification of operations, including in terms of the number of persons working from this site (it is a sole-person operation).

#### 7.5. Appropriate Assessment

- 7.5.1. The Planning Authority carried out appropriate assessment screening and determined that there was no potential for significant effects on European sites. There are 10no. European sites (1no. SPA and 9no. SACs) within c.15km of the application site (listed under s.5.2, above). The site is not within or adjacent to any European site and there is no potential for direct effects on any European site.
- 7.5.2. The site and the development proposed for retention are immediately adjacent to a water course (on the opposite side of the application site's south and southeast boundaries) hydrologically connected to the Owenagarney or Ratty River, the lower reaches of which are within the boundary to the 002165 Lower River Shannon SAC and the 004077 River Shannon and River Fergus Estuaries SPA, c.3km and 2km, respectively, to the south of the application site. The Planning Authority's AA Screening Report (table 2a) incorrectly asserts that there is only a single European site - Lower River Shannon SAC 002165 – within 15km. The Screening Report (assumed to be table 2b) incorrectly asserts that the development is not in the

catchment or immediately upstream of a watercourse that has been designated a European site.

- 7.5.3. There are no relevant source-pathway routes to any other European sites and accordingly, having regard to the scale and nature of the development proposed and to the conservation objectives pertaining to the Features of Interest of those sites, I am satisfied that significant effects on any other European site in view of their conservation objectives can be ruled out.
- 7.5.4. The NPWS Natura Data Form identifies external threats (all rated high) to the River Shannon and River Fergus Estuaries SPA as industrial or commercial areas (E02), urbanised areas and human habitation (E01 – including dispersed and discontinuous) and fertilisation (A08). External threats to the Lower River Shannon SAC, rated medium, are identified discharges (E03 – encompassing industrial, residential/recreational, inert and other), fertilisation (A08), urbanisation (E01), reclamation of land, including marshes (J02.01.02), natural eutrophication (K02.03) and air pollution / air borne pollutants, and those rated low as silviculture / forestry (B) and airports (D04.01).
- 7.5.5. The nature of the operations (cabinet maker joinery) accommodated within the structures proposed for retention, which may be classified as industrial, is likely to entail use of materials (e.g. glues, preservatives, etc.) that may be harmful to the environment if not used and disposed of appropriately. The applicant has provided no information in this regard and the Council's AA Screening Report does not consider this issue. The site does not appear to be served by the foul sewer network or other such services and the workshop is not connected to a wastewater treatment system, as it has no sanitary facilities. However, the scale of the proposed development, being a one-person operation, is small and the operations appears to be well kept and therefore the risk of unintentional spillage is also likely to be small. I therefore consider there is no potential for significant effects on the two European sites, along or in-combination with other plans and projects, in view of those sites' conservation objectives.
- 7.5.6. **Appropriate Assessment Screening Conclusion:** It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in

combination with other plans or projects would not be likely to have a significant effect on European site no.002165 Lower River Shannon SAC and European site no.004077 River Shannon and River Fergus Estuaries SPA, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.'

## 8.0 Recommendation

- 8.1. I recommend that permission be **GRANTED** subject to the conditions under section 10.0, below.

## 9.0 Reasons and Considerations

Having regard to the provisions of section 6.7.13 Rural Enterprise and of Council policy Rural Enterprises Objective CDP6.20 in the Clare County Development Plan 2017-2023, it is considered that the development proposed for retention would not seriously injure the amenities of the area, including the amenities of residential property and would be consistent with the provisions of the statutory County Development Plan.

## 10.0 Conditions

1. The development shall be carried out and completed 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. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. (a) The use of the workshop and associated portocabin shall be limited to the applicant's business only, as described in documentation submitted

with the application and as further information.

- (b) The development shall not be used for retail activity for visiting members of the public.
- (c) No further change of use of the workshop or intensification of the permitted use, shall take place without prior consent of the Planning Authority.

**Reason:** In the interest of protecting the amenities, including residential and environmental amenities, of the area.

- 3. The development to be retained shall not be separated, by sale, lease or otherwise from the existing dwellinghouse on the landholding.

**Reason:** In the interest of proper planning and sustainable development.

- 4. (a) All surface water generated within the boundaries of the site shall be collected and disposed of within the curtilage of the site to appropriately sized and designed soakpits.
- (b) All soiled surface water runoff shall be directed through hydrocarbon interceptors prior to discharge to soakpits.
- (c) Full details and drawings of the surface water drainage shall be submitted to the planning authority for its written agreement and shall be implemented within 3 months of the date of this decision.

**Reason:** To prevent environmental pollution.

- 5. (a) Details of the safe storage and disposal of all chemicals, including preservatives, paint products and etc., shall be submitted to the Planning Authority for its agreement within 3 months of the date of this order.
- (b) All goods, including raw materials, manufactured goods, packaging and crates shall be stored within the enclosed buildings.

**Reason:** To prevent environmental pollution.

- 6. No signage, advertising structures / advertisements, shall be erected within the site, or on adjoining lands under the control of the applicant.

**Reason:** To protect the visual amenities of the area.

7. The operations shall be limited to between 0800 hours and 1800 hours Monday to Friday, inclusive (excluding public holidays), and between the 0900 hours and 1300 hours on Saturdays. No operations shall be carried out at this site outside these hours.

**Reason:** In the interest of residential amenity.

8. The developer shall pay to the planning authority a financial contribution of €3,769 (three thousand, seven hundred and sixty-nine euro) 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. The application of any indexation required by this condition 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.

**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.

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John Desmond

Senior Planning Inspector

22<sup>nd</sup> December 2017