



An
Bord
Pleanála

Inspector's Report PL92.249153.

Development	Retention of (a) change of use from domestic garage to commercial shed, (b) metal storage containers (c) temporary offices.
Location	Newport memorials, Coole, Newport, County Tipperary.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	17600432.
Applicant(s)	John Healy
Type of Application	Permission.
Planning Authority Decision	Permission with conditions.
Type of Appeal	Third Party
Appellant	Joseph Ryan.
Observer(s)	None.
Date of Site Inspection	29 th January 2018.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The site is located a rural area in the townland of Coole, approximately 2 kilometres north of the town of Newport in County Tipperary. The site is triangular in configuration and fronts onto a local road which defines the western boundary. The southern boundary adjoins a residential site and the eastern boundary agricultural lands. The site would appear to have originally been a residential site with the semi-detached dwelling on the site and the other semi-detached being located on the south to the south. the site has a stated area of 0.419 hectares.
- 1.2. The site is located in close proximity to a crossroads and there are a number of dwellings in the vicinity of the crossroads including two dwellings on the western side of the public road opposite the appeal site.
- 1.3. On the site itself there is a commercial business for the production of headstones and other memorials. There are a number of buildings on the site of a temporary nature and sheds which are used for the cutting of the memorials, the engraving of the memorials, display and sales and offices related use. The buildings in question are the subject of this appeal.

2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority on the 27th April 2017 was for;
 - (a) the retention of a change of use from domestic garage to commercial shed. The shed is located in the southeastern corner of the site and is used for engraving headstones. The structure has a stated area of 52m² and is a framed ridge roof structure to a maximum height of 3.5 metres with a pvc coated exterior cladding.
 - (b) the retention of metal storage containers which are located to the north of the garage and in close proximity to the eastern boundary which has a storage area between the containers which is covered by a flat roof and which is used for storage purposes. The stated area of the overall area containers and area in between is stated as 43m² and

- (c) the retention of 2 temporary offices structures located to the north of the dwelling. The buildings are timber structures used for offices a canteen and a toilet. The overall floor area of the buildings is stated as 44m².

An existing mains water supply and an existing septic tank service the development. The entrance to the site from the public road is located to the north of the offices.

2.2. Further information was submitted to the planning authority on the 25th July 2017 by way of clarification. Matters submitted included;

- Revised details in relation to the treatment of wastewater.
- Clarification in relation any future development on the site.
- Details relating to noise suppression.
- A reorganisation of the layout of the site in relation to storage of materials,
- A revised car parking layout.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant planning permission subject to 13 conditions. Among the conditions of note

- Condition nos 2 and 3 refer to the permitted uses and hours of operation.
- Condition no 4 refers to noise levels.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 15th June 2017 refers to the

- Site history;
- Submissions received;

- Planning policy in particular policy ED9 enterprise in the open countryside and ED10 non conforming uses.
- An appraisal of the development applied for indicating issues in relation to noise and overall appearance of the site.
- Reference is made to the planning history and that the development considered to be light industry is acceptable in principle but clarification is required on a number of matters.

The planning report dated 18th of August 2017 refers to the further information submitted; and the report recommends permission.

- 3.2.2. The environment report dated the 13th June 2017 refers to the main issues as noise and wastewater. Conditions are recommended in relation to noise and further information requested in relation to effluent and wastewater disposal generally.

The environment report dated the 10th August 2017 indicates no objections to the further information submitted and recommends conditions.

- 3.3. A third party submission was received in relation to the planning application referring to impact on privacy, noise and air pollution and overall general disturbance in a rural area.

4.0 Planning History

The site has a planning history

P.A. Ref. No. 5113216

Permission granted for an extension to the cottage and for a septic tank.

P.A. Ref. No. 5115249

Permission granted to change front elevation of the cottage.

P.A. Ref. No. 5120234

Permission granted for a storage shed and retention of the yard for a fuel storage depot. Permission was granted in 1999.

P.A. Ref. No. 11510429

Permission granted for the completion of dwelling.

The site also has an enforcement history.

5.0 Policy Context

- 5.1. The relevant plan is the North Tipperary County Development Plan 2010-2016 adopted in July 2010. The plan has had its lifetimes extended (11A Planning and Development Act 2000, (as amended)), and will remain in effect until a new Regional Spatial and Economic Strategy is made by the Southern Regional Assembly, thereafter a new Tipperary County Development Plan will be made.
- 5.2. Chapter 5 of the plan refers to Economic Development. and section 5.6.2 specifically refers to Enterprise in the Open Countryside and in relation to such enterprise activities it is indicated, that commercial and industrial activities are normally located in towns and villages that have good transport linkages and access to services and that the Council will seek to promote and direct such activities to these centres.
- 5.3. There is recognition that viability of start-up enterprises is often dependent on the use of a home base and the plan on a case-by case basis, will facilitate enterprise developments, which have the purpose to facilitate a start up entrepreneur in accessing appropriate sites. Proposals will be balanced with the need to protect the residential amenities of adjoining landowners and the visual amenities of the area.
- 5.4. Policy ED9 in relation to Enterprise in the Open Countryside indicates,
- 5.5. *“It is the policy of the Council to support and facilitate the provision and/or expansion of appropriate small scale rural enterprise in the open countryside within residential sites and invacant or derelict buildings. Development proposals will be required to meet the following criteria:*
- a) The development shall not have an adverse impact on the residential, environmental and rural amenity of the area;*
 - b) Any new structure shall be of a scale appropriate to the size of the site, and be sited and designed to ensure it does not detract from the rural setting and landscape character of the area.*
 - c) The development shall comply with the development management standards set out in Chapter 10.*

Where the enterprise or activity develops to a scale that is inappropriate by virtue of activity or size in its rural context, the Council will seek to encourage its re-location to a more suitable location on zoned land within towns and villages”.

5.6. In relation to Non Conforming Uses the plan indicates its position on this in 5.6.3 and that there are cases where authorised commercial activities operate at locations which are not compatible with current planning objectives. It is desirable to protect existing employment uses and allow appropriate expansion of such facilities where this does not result in conflict with adjoining uses and be detriment to the environment, visual amenity or traffic.

5.7. Policy ED10 restates this position indicating

“It is the policy of the Council, where commercial/industrial enterprises exist as nonconforming but long established uses, to support their continued operation and expansion provided such does not result in; loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard”.

5.8. Chapter 10 of the plan outlines development management standards in relation to roads and entrances onto public roads.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appellant in the grounds of appeal indicates that he is a local resident and there was no indication when he purchased his dwelling of any commercial development on the appeal site.

6.1.2. The appellant is not aware of any previous permission relating to a permission for a commercial use on the appeal site.

6.1.3. The appeal refers to the impact on residential amenities, to the visual impact of the development, to the impact of noise and dust arising from the development.

6.1.4. Traffic on the road has increased arising from the development.

6.2. Responses to appeal

6.2.1. **The planning authority response.**

The planning authority in a submission dated the 20th September 2017 consider matters were fully addressed in the assessment of the application.

6.2.2. **The First Party Response.**

The applicant in a response dated the 22nd of September 2017 refers to;

- Reference is made to the appellant's raising matters on the appeal site over a period of time.
- The applicant purchased the site in April 2016 and the site and buildings were in disrepair.
- The site has a history of a permission for commercial use.
- Remedial works were carried out to improve the visual appearance of the site.
- The applicant was advised to apply for retention in relation to the buildings on the site in particular the steeltech shed constructed to replace an older shed.
- There is no objection from residents located nearer to the appeal site.
- Operations are carried out in compliance with standards.
- All headstones are delivered to the site cut and finished.
- There is not excessive traffic
- Reference is made to policy ED9 relating to rural enterprises.
- The area is not an idyllic rural location and there are other enterprises in the area.

7.0 **Assessment**

7.1. The first party appeal in relation to as stated in the public notices is a retention of permission for the retention of (a) change of use from domestic garage to commercial shed, (b) metal storage containers and (c) temporary offices. All in connection with the existing commercial yard on the appeal site.

- 7.2. The appeal is therefore in relation to structures on the site and not the actual use on the site which currently is a commercial business for the engraving of headstones/memorials.
- 7.3. The main issues in relation to the appeal are the appropriateness of the development in the context of the planning history, policy provisions of the development plan and impact on amenities generally.
- 7.4. The principle of commercial use was established under P.A. Ref. No. 5120234 where in 1999 planning permission granted for a storage shed and retention of the yard for a fuel storage depot on the appeal site. The current appeal relates to a number of structures used for a commercial use relating to headstone memorials which are imported to the site, engraved and prepared for subsequent use primarily in graveyards.
- 7.5. I note that in the grounds of appeal there is reference to whether planning permission was granted for a commercial use but the planning records in relation to the site indicate a permission was granted in 1999 for a commercial use stated as a fuel store.
- 7.6. I would also note reference to the provisions of the current county development plan in the appeal submissions. Chapter 5 refers to Economic Development where it is indicated, that commercial and industrial activities are normally located in towns and villages and that the Council will seek to promote and direct such activities to these centres. There is, however, recognition that not all industrial and commercial activities are not located in centres and section 5.6.2 specifically refers to Enterprise in the Open Countryside and in relation to such enterprise activities and require to be considered on a case by case basis and evaluated with the need to protect the residential amenities of adjoining landowners and the visual amenities of the area and this is further stated in Policy ED9.
- 7.7. The plan therefore does allow for consideration of commercial uses outside of centres but in terms of the appeal site I would accept that the site has an established use for commercial activities and the focus of the appeal relates to the structures on the site associated with the present commercial use.

- 7.8. In relation to the buildings on the site which are the subject of this appeal with the possible exception of the *steeltech* shed the other structures are timber structures and containers which could be considered to be temporary structures.
- 7.9. I would note that the primary issues raised in the appeal relate to impact on amenities in particular noise, dust and general disturbance. In the further information submitted on the 25th of July 2017 revised details were submitted in relation to a reorganisation of the layout of the site in relation to storage of material, car parking and drainage. Details were also submitted relating to noise suppression in particular the application of soundproof insulation and mitigation measures in relation to the suppression of dust and air emissions.
- 7.10. I would have no objections to the revised details as submitted given the location of the structures on the site and the relative distance to other residential properties in the vicinity.
- 7.11. Any consideration of permission in relation to the development under appeal should I consider be in the context of a limited duration and period of permission given the nature of structures rather than a permission of an unlimited period.
- 7.12. I would have no objection to a temporary permission on this basis as it would address the nature of the structures applied for which I consider are not permanent structures and also permit an ongoing evaluation and assessment of the development in particular in the context of whether they are suitable for the purposes and activities for which they are used on a permanent basis and allow for an ongoing regulation of the site in particular in relation to noise and dust.
- 7.13. The development as applied for also includes change of use from a domestic garage to a light industrial building to which I have no objection.
- 7.14. Conditions in relation to regulating hours of operation and matters relating to noise in the structures is I consider reasonable.
- 7.15. I note that in the course of the application the applicant submitted revised proposals by way of a response of a request of further information in relation to the installation of a revised waste water treatment system replacing the existing system of a septic tank and percolation area on the site and also other matters relating to parking. I would have no objections to this aspect of the development but it did not form part of the original development as referred to in the public notices and were not required to

be included by any subsequent requirement of a revised public notice referring to them. I consider that a grant of permission for these aspects of the development would require consideration of revised public notices to permit such revisions.

8.0 Recommendation

8.1. Having considered the submissions received in relation to this appeal I recommend that permission be granted for a temporary period of five years for the development as applied for.

9.0 Reasons and Considerations

Having regard to the nature of the development and the planning history of the site it is considered that subject to compliance with the conditions set out below, the development would not detract from the character and visual amenities of the area or seriously injure the residential amenities of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. This grant of permission for the retention of development as stated in the public applied for in the public notices lodged with the application on the 27th of April 2017.

Reason: In the interests of clarity

- 2 This grant of permission is for a period not exceeding five years from the date of this order. On or before the expiry of the period of five years the structures shall be removed from the site. unless, prior to the end of the

period, permission for their retention for a further period shall have been obtained.

Reason: To allow for a review of the development having regard to the circumstances then pertaining and in the interest of clarity and orderly development

- 3 The development shall only be used between 08.00 hours and 18.00 hours on Mondays to Fridays inclusive (excluding public holidays), and only between the 08.00 hours and 16.00 hours on Saturdays and no activities shall occur on Sundays and public holidays.

Reason: In the interest of residential amenity.

- 4 The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive location in this case a habitable dwelling between 08.00 and 18.00 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site

- 5 The developer shall pay to the planning authority a financial contribution 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.

Derek Daly
Planning Inspector

5th February 2018