



An
Bord
Pleanála

Inspector's Report PL14.249157

Development	Retention of existing agricultural shed and all ancillary works
Location	Cloonbalt, Longford, Co. Longford
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	16/235
Applicants	Michael Shaw
Type of Application	Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Hugh McCann
Observer(s)	None
Date of Site Inspection	29 th November 2017
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 1.02 ha, is located in the townland of Cloonbalt, on the northern outskirts of Longford town. The site is accessed from a local road off the R198 Regional Road, and the N4 National Road is located c. 300m to the west.
- 1.2. The site is irregularly shaped, and includes the applicant's house, a number of agricultural, storage and other outbuildings, various yard and hardstanding areas and a sand arena. It wraps around two sides of the appellant's property, which is located close to the local road, and a long single storey steel clad shed is located to the rear of the boundary with the appellant's property. The applicant's house is a two storey detached structure accessed via a relatively long driveway, with the majority of the sheds and outbuildings located to the rear (west) of the house. The sand arena is located to the north east of the applicant's house, close to the local road.
- 1.3. The appeal site is generally bounded by hedgerows and/or fencing, with a stone wall along the local road. Lands to the west and south are generally undeveloped, while lands to the north and east are generally in residential use.
- 1.4. The Site Location Map indicates that the applicant owns a further area of c. 0.41 ha to the south of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development, as amended on foot of a request for further information, consists of the retention of an existing agricultural storage shed which is stated as being used for general agricultural storage purposes, the retention of an existing low level storage shed and all ancillary works.
- 2.2. The larger of the two sheds has a stated gross floor area of 260 sq m, and comprises an open storage area with three stables. It is a steel structure, with plastered lower walls, while the upper walls and roof comprises grey-coloured metal cladding. It is open to the north elevation, while the sides and rear elevations are solid. The structure has dimensions of c. 24.7m by c. 11m, with a maximum height of 5.945m.

2.3. The smaller of the two sheds has a stated gross floor area of 96 sq m, and comprises a steel structure, with green-coloured cladding on a concrete base, with dimensions of 16m by 6m, with a maximum height to the roof apex of 3.029m. It features a roller door on the northern elevation and no other doors or windows.

3.0 Planning Authority Decision

3.1 Decision

3.1.1. Longford County Council decided to grant planning permission subject to ten conditions, including the following summarised condition:

- **C2:** Drainage arrangements to be in accordance with Dept. of Agriculture requirements.
- **C3:** Sheds for retention shall be installed in accordance with Dept. of Agriculture S123 Specifications.
- **C6:** Restrictions on effluent landspreading.
- **C7:** Slurry spreading in accordance with the Code of Good Agricultural Practice for Protection of Waters.
- **C10:** Planting of rear and lateral boundaries.

3.2 Planning Authority Reports

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

- Applicant has adequately addressed all the issues raised in the clarification of further information request (i.e. planning status of existing sand arena and mention of horse walker) to the satisfaction of the Planning Authority.
- The proposed development is located within an existing complex and will not be visibly intrusive from the adjoining roadway.
- Taking account of the existing agricultural use on the site, the principle of the proposed development is considered acceptable.

3.3. Other Technical Reports

3.3.1. None.

3.4. Prescribed Bodies

3.4.1. **Irish Water:** No objection.

3.5. Third Party Observations

3.5.1. One observation was made by the appellant. The issues raised in the observation were generally as per the appeal, as well as the following:

- Observer has been plagued for years by on-going nuisance from the intensive agricultural development beside his home.
- Previous application Reg. Ref. 15/40 was withdrawn when it was disclosed under duress that all the other intensive agricultural works on the application site were illegal.
- Proposed development is contrary to the aims, objectives and policies set out in the Development Plan for an area which is residential.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. **Reg. Ref. 15/40:** Planning application for retention of existing agricultural storage shed which is used for general agricultural storage purposes (Class 3), together with seeking full planning permission for the proposed erection of a horse walker and all ancillary works. Application declared withdrawn.
- 4.1.2. **UNA 1040:** Warning letter served in relation to the construction of an unauthorised shed on the site.
- 4.1.3. **Reg. Ref. 03/722:** Planning permission granted for a bungalow-type dwelling.
- 4.1.4. **Reg. Ref. 02/131:** Planning permission granted for the construction of a dwelling.

4.2. Surrounding Area

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

5.0 Policy Context

5.1. Longford County Development Plan 2015 – 2021

- 5.1.1. I note that the appeal site is located adjacent to, but outside of, the boundary for the Longford Town and Environs Local Area Plan 2016-2022, which has been incorporated as Variation No. 2 of the Longford County Development Plan 2015-2021.
- 5.1.2. Lands to the south of the appeal site, which are within the LAP boundary, are zoned as a 'Strategic Residential Reserve'. The LAP notes that this zoning objective seeks to provide for the longer term housing requirements of the town.
- 5.1.3. The County Development Plan does not identify any designated views, prospects or scenic routes in the vicinity of the appeal site.
- 5.1.4. The appeal site is located within the 'Central Corridor' landscape unit within the Landscape Character Assessment for County Longford. The LCA states that this landscape unit is generally of 'low' sensitivity with a high capacity for absorption of additional development, with the main threats being continued ribbon development in pressure areas, loss/fragmentation of agricultural lands and pollution of groundwater sources.
- 5.1.5. The following agricultural policies are noted:
- **AGR 1:** Where an area of land is outside a settlement (i.e. an area not indicated as part of the Core Strategy, as listed in this document), and is not otherwise zoned as part of this Development Plan or The Longford Town Plan, the use of such land shall be deemed to be primarily agricultural. Primarily agricultural zoning provides for the agricultural use of the land and any ancillary uses, including residential. Other uses may be permitted, subject to assessment on a site-by site basis and compliance with the development control standards and other policies and objectives contained within this plan.

The establishment of suitably small-scale industrial/commercial developments in rural areas on family owned land and developments which would promote rural diversification, subject to relevant planning criteria, will also be encouraged.

- **AGR 2:** It is policy of the Council to promote the agricultural industry and appropriate rural development and diversification, balanced with the natural, architectural and archaeological heritage and landscape character of the County. In this regard, proposed development should consider potential heritage and landscape impacts and identify mitigating measures where required to ameliorate negative impacts.
- **AGR 8:** Sites to be developed for agriculture purposes shall be designed to the highest standards to provide quality environments with adequate provision where necessary for landscaping, car and truck parking and circulation and the appropriate disposal of foul and surface water.
- **AGR 9:**
 - a) The Planning Authority accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards etc.) to be functional, but they will be required to be sympathetic to their surroundings - in scale, materials and finishes. Buildings should relate to the landscape and not the sky-scape. Traditionally this was achieved by having the roof darker than the walls. Appropriate roof colours are dark grey, dark reddish brown or a very dark green.

The grouping of agricultural buildings will be encouraged in order to reduce their overall impact in the interests of visual amenity.

- b) A landscaping plan is required as part of applications for agricultural developments. In general, the removal of hedges to accommodate agricultural developments will only be considered as a last resort.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal was made on behalf of Hugh McCann by Liam Madden of Vitruvius Hibernicus. The grounds of appeal can be summarised as follows:

- Appellant lives immediately beside the application site. He complains about nuisance from the site and on-going non-compliance with enforcement procedures and the Council's reluctance/inability/neglect in prosecuting unauthorised development.
- Application site lies between a Strategic Residential Reserve zoning and an Established Residential Zoning.
- The developments, taken as a whole, do not have the benefit of planning permission. The sand track is not exempted development.
- The use of the land as an intensive agricultural landholding and the erection and use of the buildings are without permission and would not be exempted development.
- The use of land for the purposes of agriculture is exempted development but the buildings erected are not exempt.
- The erection of the buildings has created an intolerable nuisance.
- The retention of the unauthorised buildings is unreasonable with regard to the residential context.
- The only justification of the Planning Authority was that the buildings are not visibly intrusive from the public road. However it affects the appellant's view and his right to the full enjoyment of his dwellinghouse.
- The test in every application for retention is - would this development have been granted permission in the first instance if the buildings had not been erected without permission? The answer is no.

6.2. Observations

6.2.1. None.

6.3. Applicants' Response to Appeal

6.3.1. A response to the appeal was submitted on behalf of the applicant by Cunningham Design and Planning and can be summarised as follows:

- The purpose of the structure for which retention permission is sought is to keep ponies as an outlet and pastime for the applicant's children.
- The applicant's children have grown up and their activity with the ponies is not as intense as it may once have been. For this reason, the applicant did not seek planning permission to erect the horse walker as was originally the case and which was referenced in the Clarification of Further Information letter issued to Longford County Council.
- This is not a large scale operation and is only a summer pastime for the applicant's children. The applicant's main business is in the motor trade, and he runs his own garage at Athlone Road, Longford.
- The applicant has lived for his entire life and his parents before him at this address, long before the land was zoned. His father's landholding was larger and was farmed all his life.
- In relation to the other structures on the site, the applicant's house and garage were permitted and the agent proved to the satisfaction of Longford County Council that the existing sand arena was exempt development.
- The applicant has never received an enforcement notice in respect of this landholding.
- The applicant is willing to accept any conditions that may be imposed to ensure that the development does not cause a nuisance, and to accept a condition regarding landscaping.

6.3.2. A letter from the applicant was included with the appeal. It can be summarised as follows:

- There was always a small farm holding at this site. This consisted of a two bay hay shed where the sand arena is now. The hayshed was there from the early 1960s.

- The hayshed was removed following discussions between the applicant and the appellant, as the appellant claimed it was in his view when he looked out his window.
- The appellant was aware that there was always a farm building at the site, as he often helped the applicant's father make hay and silage.
- Ponies for kept for pleasure purposes only.
- Applicant is aware of appellant and other elderly neighbours and would never cause nuisance. Applicant has tried to help appellant on previous occasions, including giving him a right of way between the two houses.
- Appellant did not mention shed until it was completed. He agreed that if some tall trees were planted across his view this would be adequate. Applicant subsequently planted mature beech trees which have left shed almost invisible.

6.4. Planning Authority Response

6.4.1. None.

7.0 Assessment

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

- Principle of proposed development.
- Residential and visual amenity.
- Effluent management.
- Development contributions.
- Other issues.
- Appropriate Assessment.

7.2. Principle of Proposed Development

7.2.1. The appellant contends that the proposed development is an intensive agricultural development in an area between an established residential area and a strategic

residential reserve, and that the retention of the development is unreasonable with regard to this context.

- 7.2.2. On the date of my site inspection I noted that the larger shed for which retention permissions is being sought was being used to store a tractor, horse box, various pieces of agricultural machinery, straw bales and other such items. A number of horses were also present at the site. Access to the smaller storage shed for which retention permission is also being sought was not possible. The applicant has indicated that the horses are used primarily as a pastime for his children and I note that the definition of agriculture set out in section 2 of the Planning and Development Act 2000, as amended, includes the training of horses and the rearing of bloodstock.
- 7.2.3. As noted above, the appeal site is located adjacent to, but outside of, the boundary for the Longford Town and Environs Local Area Plan 2016-2022. The appellant is correct to note that lands to the south of the appeal site are zoned as a 'Strategic Residential Reserve', while lands to the north east are zoned as 'Established Residential'. However, the appeal site is unzoned and outside the LAP boundary and therefore I consider Policy AGR 1 to be applicable in this instance. Policy AGR 1 states that the use of land outside of a settlement, and which is not otherwise zoned, shall be deemed to be primarily agricultural. Primarily agricultural zoning provides for the agricultural use of the land and any ancillary uses, including residential. The Policy also states that other uses may be permitted, subject to assessment on a site-by-site basis and compliance with the development control standards and other policies and objectives contained within this plan. The larger shed for which retention permission is sought is located 23.5m from the boundary with the 'Strategic Residential Reserve' lands, and I do not consider that the development would hinder the future development of those lands.
- 7.2.4. Having regard to the 'primarily agricultural' land use of the appeal site, and the site context, I also consider Policies AGR 2 and AGR 8 to be of particular relevance. These Policies promote the agricultural industry and appropriate rural development and diversification, subject to consideration of potential heritage and landscape impacts, mitigating measures to ameliorate negative impacts and the design of agricultural developments to the highest standards.

7.2.5. In conclusion, having regard to the nature of the development for which retention permission is sought, the 'primarily agricultural' land use zoning objective which can be considered to apply to the appeal site under Policy AGR 1, and the Policies of the Development Plan which support appropriate rural development, I consider the proposed development to be acceptable in principle, subject to consideration of the other planning issues identified in Section 7.1 above.

7.3. Residential and Visual Amenity

7.3.1. The appellant contends that the development has created an intolerable nuisance for him, and that the buildings are visually intrusive.

7.3.2. With regard to the larger shed, it is of typical agricultural design and layout and is located to the rear of the applicant's house, at a distance of 148m from the public road. Having regard to this distance, the agricultural setting, and the screening provided by vegetation and the applicant's house, I do not consider that the shed is visually intrusive or out of character with the pattern of development in the area. The smaller shed is located to the rear of the appellant's property and is not readily visible from the public road.

7.3.3. With regard to the impact on residential amenity, I note that the larger shed is separated from the appellant's property by 127m. A line of beech trees has been planted to the south of the applicant's house, and while these are not yet sufficiently high or dense to fully screen the larger shed, they do serve to mitigate the visual impact and act as a visual break between the residential and agricultural elements of the appeal site. The smaller shed is located immediately to the rear (west) of the appellant's property. However, having regard to its relatively modest height, which is 3m at the apex and 2.5m at the eaves level, the presence of an equivalently high hedgerow along the appellant's rear boundary, and the single storey nature of the appellant's property, I do not consider that the smaller shed would be visually intrusive or otherwise impact on the residential amenities of the appellant through overlooking, overshadowing or overbearing impacts.

7.3.4. The appellant has not expanded on the nature of the intolerable nuisance that is contended to result from the development. If it is in relation to the operation of the sand arena, then I would note that that does not form part of the development for

which retention permission is being sought. With regard to potential odour and noise emissions, I consider that having regard to the 127m separation distance, the agricultural storage shed would not be likely to have a significant negative impact on residential amenity. Nevertheless, as outlined below, I recommend that conditions be imposed regarding the appropriate management of effluent and waste bedding.

- 7.3.5. While I do not consider that the development for which retention permission is sought would have a significant negative impact on residential or visual amenities, I do consider that the site would benefit from additional landscaping, including the reinforcement of boundary hedgerows with native species, and the planting of additional screening to the south of the applicant's house, and I recommend that a condition be attached requiring the submission of a landscaping plan for the agreement of the Planning Authority.

7.4. Effluent Management

- 7.4.1. The Site Layout Plan submitted with the application shows roof runoff from the large agricultural storage shed being piped to an adjacent drain to the south west. While the shed is primarily used for storage, there are three stable units within it, adjacent to an existing stable block which does not form part of the development for which retention permission is being sought. While no effluent will arise from the storage element of the development, the stables will give rise to manure, used bedding etc. that will require disposal. The applicant has not indicated what happens with this waste material currently, and I therefore recommend that, if the Board is minded to grant permission, that suitable conditions be included regarding the appropriate management of surface water and effluent.

7.5. Development Contributions

- 7.5.1. No condition requiring the payment of a development contribution was attached to the Planning Authority's decision. I note that Table 2 of the Longford County Council Development Contribution Scheme states that the amount of contribution for agricultural development is €5 per sq m greater than 400 sq m of roofed development area. From my calculation, the cumulative roofed development area

would be slightly greater than 400 sq m, and I therefore recommend that a development contribution condition be included.

7.6. Other Issues

- 7.6.1. The appeal also raises matters of planning enforcement and the planning status of the sand arena to the front (east) of the appeal site. I note that the Board has no remit in matters of planning enforcement, and that the sand arena does not form part of the development for which retention permission is being sought. The planning status of the sand arena was queried by the Planning Authority by way of a request for further information and a request for clarification of further information in the course of its assessment of the application. The Planning Officer, in her report, stated that the applicant had adequately addressed all the issues raised in the clarification of further information request (i.e. including the planning status of the sand arena) to the satisfaction of the Planning Authority. For the purposes of this planning assessment, I am therefore satisfied that no other issues arise in this regard.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development, which relates to the retention of two agricultural storage sheds on a site that is not within or in the vicinity of any Natura 2000 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 granted, subject to conditions as set out below.

9.0 Reasons and Considerations

9.1. Having regard to the 'primarily agricultural' zoning objective for the area as defined in Policy AGR 1 of the Longford County Development Plan 2015-2021, the scale of the development, its set back from the public road, and the location of the larger shed to the rear of the existing house, it is considered that the development for which retention permission is sought, subject to compliance with the conditions set out below, would not detract significantly from the visual or landscape character of the area, would not interfere with protected views in the vicinity of the site, would not be prejudicial to public health and would not seriously injure the residential amenities of nearby properties. The development for which retention is sought would not, therefore, be contrary to the policies and objectives of the Longford County Development Plan 2015-2021, and would not be contrary to the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 31st day of May 2017 and the 31st July 2017, 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) All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to foul effluent drains or storage tanks, or to the public road.

(b) Water supply and drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014, as amended.

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.

4. No waste bedding material arising from the keeping of horses in the stables shall be stored on site.

Reason: In the interest of public health and in order to minimise environmental pollution.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.

(ii) Details of screen planting which shall not include cupressocyparis x leylandii.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be

replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. 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.

Niall Haverty
Planning Inspector

6th December 2017