



An  
Bord  
Pleanála

## Inspector's Report ABP-300050-17.

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<b>Development</b>	Permission to build a private shed at side of existing garage and all associated site works.
<b>Location</b>	Castletown, Kilflynn, Co. Kerry.
<b>Planning Authority</b>	Kerry County Council.
<b>Planning Authority Reg. Ref.</b>	17/817.
<b>Applicant(s)</b>	John Kelly.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	John Kelly.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	11 <sup>th</sup> January, 2018.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located approximately 600m to the north east of the centre of village of Kilflynn located on a minor county road. Kilflynn is located approximately 10km to the north of the town of Tralee and to the north west of the N69, the Tralee – Listowel Road.
- 1.2. The site has a stated area of 0.21ha and is a mature residential site. There is an existing single storey detached house and detached garage. The house has a stated floor area of 173.12m<sup>2</sup> while the detached garage has a floor area of 44.13m<sup>2</sup>. The existing garage is located to the rear (south) of the site. The site slopes down from the road towards the rear of the site. It would appear that the area of the existing garage and the rear of the site, was filled to raise the site levels in the past. The property is serviced by a private waste water treatment system.
- 1.3. The wider area is rural in its nature with agricultural fields to the south and west. There is a storey and a half house to the immediate east of the site with three further residential properties across the public road to the north.

## 2.0 Proposed Development

- 2.1. Permission is sought to build a private shed at side of existing garage and all associated site works at Castletown, Kilflynn, Co. Kerry.
- 2.2. The shed will have a stated floor area of 73.8m<sup>2</sup> and an overall height of 5.2m. It was originally proposed that the shed would be constructed using blocks and a plaster finish while the proposed roof finish would be Steel Shed Kingspan Insulation. The information submitted to the Board indicates that the finishes will match those of the existing garage on the site.
- 2.3. The shed is to be located at a reduced floor area in order to maintain the overall height to match the existing domestic garage on the site. The purpose of the shed is indicated for private use for the maintenance and storage of a mini digger.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to refuse permission for the proposed shed for the following two stated reasons:

1. The proposed erection of a new shed at this location by reason of its siting and design would be unduly obtrusive by virtue of its visual impact on the landscape and would interfere with the character of the landscape, which is necessary to preserve, in accordance with Objective ZL 1 of the Kerry County Development Plan, 2015-2021. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development, by reason of its proposed size and scale and use as machinery storage and repair facility would seriously injure the amenities of, or depreciate the value of properties in the vicinity due to noise and disturbance. The proposed development would, therefore, be contrary to Objective ES-28 and Section 13.8 of the Kerry County Development Plan 2015-2021. The proposed development would, therefore, be contrary to the proper planning and development of the area.

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

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

The Planning report considered the proposed development in terms of the planning history as well as all the relevant information presented in support of the application and the relevant policies in the Kerry County Development Plan. The report notes that permission was refused for a similar shed, 17/192 refers, and considers that the impression of the proposed shed is commercial, and the report notes the occupation of the applicant as a landscaper. The report formed the basis of the Planning Authority decision to refuse permission.

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

None

## 4.0 Planning History

The following is the planning history relating to the subject site:

**PA ref 04/1248:** Permission granted to Laurence Costelloe to build two dwelling houses with septic tanks and percolation areas including all necessary ancillary site works.

**PA ref 05/2960:** Permission granted to current applicant to build a private single storey dwelling with septic tank and percolation area including all necessary ancillary site works (planning reg no. 04/1248)

**PA ref 09/370:** Permission granted to current applicant to retain the removal of existing ditch and replacement of timber post and rail fence on front boundary.

**PA ref 17/192:** Permission granted to current applicant to retain dwelling house, garage, boundary wall, access road and all ancillary site works within revised site boundaries and permission **refused** for the construction of a new shed at side of existing garage for the same reasons indicated in the current appeal.

## 5.0 Policy Context

### 5.1. Development Plan

The Kerry County Development Plan, 2015-2021 is the relevant policy document pertaining to the subject site. The following sections and objectives are considered relevant:

- 5.1.1. Chapter 3, section 3.3 sets out Rural Development Policies and it is noted that the subject site is located within an area zoned Rural General, Section 3.3.2.1 of the plan refers.
- 5.1.2. Section 4.8 of the Plan deals with the Rural Economy, Chapter 12 deals with landscape protection, while chapter 13 deals with Development Management.

### 5.2. Natural Heritage Designations

None. The site lies approximately 2km from the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code 004161).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a first party appeal against the decision of the Planning Authority to refuse permission for the construction of the new shed. The grounds of appeal are summarised as follows:

- The application is justified and does not cause any visual impact on the surrounding properties.
- Cannot understand why KCC granted permission for the access road to the shed and then refuse the shed.
- The shed height has been lowered so that it fits in with the existing garage and it will be constructed in block with the same roof as the existing garage.
- The shed is for private use only for the storage and maintenance of the mini digger.

### 6.2. Planning Authority Response

The Planning Authority has not responded to this appeal.

### 6.3. Observations

None

## 7.0 Assessment

Having regard to the nature of the proposed development and the details submitted with the planning application and appeal documents, I conclude that issues arising for consideration should be addressed under the following headings:

1. Compliance with the County Development Plan
2. Visual & Residential Amenity Issues
3. Appropriate Assessment.

## 7.1. Compliance with the County Development Plan

- 7.1.1. The site the subject of this appeal is located approximately 600m to the north east of the centre of rural village of Kilflynn in Co. Kerry. Kilflynn is located approximately 10km to the north of the town of Tralee, to the north west of the N69, the Tralee – Listowel Road and within a rural landscape. The site is located on a local county road.
- 7.1.2. The existing site comprises a single storey house and a garage on the site which runs downwards from the public road to the north, towards the south. The site levels at the rear of the site have been raised in the past. It is proposed that the finished floor of the proposed shed will be reduced by approximately 1.3m in order to maintain the same ridge height as the existing garage. The proposed shed has been altered to ensure that the finishes will match the existing shed on the site.
- 7.1.3. The site is located within an area of Co. Kerry which is zoned Rural General, in the Kerry County Development Plan, 2015-2021. This zoning states that ‘it is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape’.
- 7.1.4. Section 13.8 of the Plan, which deals with Home Based Economic Activity, states that ‘proposals should not negatively affect the amenities of adjoining occupiers, particularly in relation to hours of work, noise and general disturbance’. In addition, the section states that ‘light industrial use / repair and storage of vehicles and trucks will not be permitted unless the planning authority is satisfied that the residential amenity of adjacent properties is not affected.’
- 7.1.5. Section 4.8 of the County Development Plan deals with Rural Economy and acknowledges the importance of the rural economy and it is the stated policy of the Council to support proposals for rural enterprise development in a sustainable manner. In this regard, I conclude that the principle of the proposed development can be considered as being acceptable and in accordance with the requirements of the County Development Plan. Issues relating to the visual and residential amenity impacts are discussed further below.

## 7.2. Visual & Residential Amenity Issues

- 7.2.1. The Board will note that the Planning Authority refused permission for the proposed development of the shed for two stated reasons. These reasons related to visual impact and impacts on the amenities of property in the vicinity.
- 7.2.2. The Planning Authority has considered that the development, if permitted, 'would be unduly obtrusive by virtue of its visual impact on the landscape and would interfere with the character of the landscape'. I have considered this matter very carefully, and the Board will note the attached photographs from various vantage points.
- 7.2.3. I would not share the same concerns as the Planning Authority in terms of the potential visual impacts associated with the proposed shed. I am satisfied that the applicant has sought to minimise the visual impacts associated with the shed by reducing its finished floor level so that the ridge height will reflect that of the existing garage. In addition, I note the proposal to construct the shed in the same materials as the existing garage, and not to use the originally proposed metal cladding. The rear of the subject site slopes down from the public road and it is therefore possible to set the shed into the landscape. Views from the rear of the site, to the west, south and east, will, in my opinion, not be significantly affected given that the shed is to be constructed within the context of the existing cluster of houses at this location. A condition requiring the planting of an evergreen hedge to the rear of the shed and garage, will eliminate any potential visual impact issues arising.
- 7.2.4. The purpose of the shed is indicated for the housing and maintenance of the applicants small mini digger. The applicant operates a landscaping business. The Planning Authority has considered that the development, if permitted, 'would seriously injure the amenities of, or depreciate the value of properties in the vicinity due to noise and disturbance.' This would be contrary to Objective ES-28 and Section 13.8 of the County Development Plan. It would appear that the concern arises due to the profession of the application, as evidenced in a previous application, and that the development, if permitted, would have an adverse impact on the residential amenity of nearby residents, particularly in relation to noise, traffic, air quality and odours.
- 7.2.5. I have considered this matter carefully and I would note that on the day of my inspection, a small truck was parked at the rear of the site. The operation of a

landscape business from the site has a minimal impact, in my opinion, on the amenities of the area. The proposed shed, to be located in the south western corner of the site, is at a distance from the nearest residence. The planning history of the site indicates that a separate entrance has been permitted to access the rear of the house, the area of the existing garage and the proposed shed. This access is also away from existing residential properties.

- 7.2.6. The proposed use of the shed is clearly indicated, being to store and maintain the applicants mini digger. I am satisfied that this does not amount to a light industrial use, and I am generally satisfied that the storage of this mini digger will have little or no impact on the residential amenities of adjacent properties. The scale of the shed is acceptable and the Board will note that no WC services are proposed which would suggest low level, and personal, level of activity.

### **7.3. Appropriate Assessment**

- 7.3.1. The subject site is not located within any Natura 2000 site but is located approximately 2km from the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code 004161). It is the stated policy of the Kerry County Development Plan, 2015, to conserve, manage and, where possible, enhance the County's natural heritage including all habitats, species, landscapes and geological heritage of conservation interest and to promote increased understanding and awareness of the natural heritage of the County. In addition, the Plan provides, at Objective NE 12, that no projects which would be reasonably likely to give rise to significant adverse direct, indirect or secondary impacts on the integrity of any Natura 2000 sites, having regard to their conservation objectives, will be permitted (either individually or in combination with other plans or projects) unless imperative reasons of overriding public interest can be established and there are no feasible alternative solutions. The site is not located within the existing boundaries of the Natura site.
- 7.3.2. Having regard to the nature of the site, being a developed residential site, together with the minor nature and scale of the works proposed, 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

I recommend that planning permission be granted of the proposed development for the following reasons and considerations and subject to the stated conditions.

## 9.0 Reasons and Considerations

Having regard to the provisions of the current Kerry County Development Plan, 2015 – 2021, the location of the site, and the pattern of existing and permitted development in the vicinity, together with the information submitted as part of the planning application, and the appeal, the Board is satisfied that the proposed development is acceptable in terms of design and scale and would not adversely impact the residential amenities of existing adjacent properties, or the visual amenities of the area, and would be acceptable in terms of traffic safety, subject to compliance with appropriate conditions, and would therefore, be in accordance with 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, and further information submitted to the planning authority on the 21<sup>st</sup> of August, 2017 and further information submitted to An Bord Pleanla on the 27<sup>th</sup> October, 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. The shed shall not be used for any purposes other than the storage and maintenance of the mini digger, without a prior grant of planning permission.

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

3. The shed hereby permitted shall be constructed in block and shall have a smooth plaster finish and the roof shall be finished in slate to match that of the existing garage and house on the site.

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

4. The boundary of the site in the vicinity of the shed shall be landscaped, using only indigenous deciduous trees and hedging species, and the existing boundaries shall be retained in full. Full details of landscaping proposals shall be submitted for the written agreement of the Planning Authority prior to the commencement of any development on site.

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 order to appropriately screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential and general amenities of property in the vicinity.

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**A. Considine**  
**Inspectorate**  
**15<sup>th</sup> January, 2018**