



An
Bord
Pleanála

Inspector's Report ABP-300247-17

Development	Construct an agricultural building on Farm Lands with re-location of agricultural entrance.
Location	Ballymakegoge, The Spa, Tralee, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	17/476
Applicant(s)	Gerard Hanafin.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Peter Flaherty.
Observer(s)	None
Date of Site Inspection	7 th May 2018
Inspector	Fiona Fair.

1.0 Site Location and Description

- 1.1. The application site, is located on the western outskirts of 'The Spa' village, approx. 5.5 kilometres north west of Tralee town in County Kerry. The field has road frontage on the south-western side to The Spa – Churchill road. As well as a narrow local road on the north-eastern side. The site is 'greenfield' in nature, currently in use as pasturelands and accessed by way of an existing agricultural entrance to the narrower minor road. It is proposed to relocate the existing entrance, along the eastern boundary to the south by some 6m.
- 1.2. The northern boundary is defined by thick hedging and mature trees including Leylandii trees which are outside of the control of the application site. The southern and western boundaries are open in nature and the eastern roadside boundary comprises a hedgerow with sporadic trees.
- 1.3. There is one dwelling, the appellants bungalow, located approx. 23.5m from the northern field boundary and approx. 33.5m from the northern (side) elevation of the proposed shed.
- 1.4. The area in general is populated with a large number of one off rural dwellings and some sporadic farm buildings / homesteads are also present.

2.0 Proposed Development

2.1. Permission for:

- An agricultural building (stated area of 224.30 sq. m)
- Relocation of agricultural entrance

The site area was stated as 5.867 ha, however, this was revised by way of F.I which was deemed significant and re-advertised downwards to 0.43 ha

The proposed shed is to be used for storage of farm machinery / material which includes the following:

- 1997 New Holland Tractor
- Manure Spreader
- Farm Jeep year 2003

- Grass mower for Tractor
- Cattle Box
- Sheep Gates / Fencing equipment / animal feed.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The following further information was requested (1) Pre-development archaeological testing study of the site (2) Clarification of the proposed use of the shed (3) Reason for choosing this location for the proposed shed given site levels.

3.1.2. By way of further information response:

- The applicant revised the area of the site pertaining to the application to 0.43 ha. It is submitted that the requirement to undertake archaeological testing was based upon the large scale of the site, given the site area was reduced to under 0.5 ha, there is no requirement to undertake archaeological testing. This was accepted by the planning authority.
- It is submitted that the location identified for the shed is such that it will not be imposing on the landscape and would not be intrusive on any property owing to the heavy screening and ditch to the northern boundary.
- The applicant is a part time farmer with cattle and sheep and has full employment with Paddy Wagon as a driver.
- The applicant requires the shed to store his farm machinery and farm material / feed to operate his part time farm business.
- Traffic movements from the shed would be minimal.

3.1.3. Planning permission was subsequently granted subject to nine number conditions. Conditions area summarised as follows:

Condition 2 External finish shall be dark brown, dark grey or olive green.

Condition 3 FFL shall not be more than 250mm above existing ground level.

Condition 4 The shed shall be used solely for the storage of agricultural items and equipment as set out in the application.

Condition 5 Roof water to be piped uncontaminated by slurry, feedstuffs or other polluting matter into a suitable soakpit or free flowing watercourse.

Condition 6 Roadside boundary shall be retained except where its removal is necessary for the construction of an entrance.

Condition 7 Pertains to surface water

Condition 8 Requires that any external lighting shall be cowled and directed away from the public roadway and shall not be visible from any point more than 100m away from the light.

Condition 9 Requires that the development shall be screened from the surrounding countryside with native hedges and trees such as:

- Native Evergreens (Holly, Scots Pine, Yew)
- Native Deciduous (Oak, Elm Ash, Birch, Hazel, Alder, Willow, Whitethorn, Blackthorn, Irish Whitebeam, Rowan)
- Exotic species such as Cypress Leylandii, Rhododendron or Laurel shall not be used

This screening shall be planted along the south western and south eastern revised site boundaries as indicated on the site plan received on the 05/09/2017, as well as where it is proposed to close up the existing entrance on the roadside boundary, and shall be undertaken in the first planting season after completion of the construction of the shed.

Existing boundary screening on the field shall be retained in full.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report: The planning report supports the draft decision to grant planning permission. It is considered that the proposed use, location and need for the shed is reasonable and acceptable, would not be seriously injurious to the

residential amenity of the area and would not have a significant negative visual impact given the nature and location of the proposed development.

3.2.2. Other Technical Reports:

Inspectors Note: The planners report details the following reports, however, only reports from the Roads Office and the County Archaeologist are attached to the file:

- County Archaeologist. Report prior to F.I. states: There are no recorded monuments in the immediate area of the proposed development. However, given the scale of the proposed development, predevelopment archaeological testing should be carried out across the site and a report submitted prior to any grant of permission.
- Roads Office: No Objection
- Water Services Department: No Objection
- Irish Water: No Objection
- Bio-Diversity Officer: No Comments to make

3.2.3. Prescribed Bodies:

- None

Note: An Bord Pleanála referred the file to the Department of Culture, Heritage and the Gaeltacht, no response was forthcoming.

3.3. Third Party Observations

Two number objections received concerns raised are similar in nature to those raised in the third party appeal on file, summarised below. In addition concerns were also raised with respect to:

- Traffic safety
- Adequacy of the road network to cater for large machinery
- Noise impact to adjacent dwellings
- Loss of privacy
- Noxious Odours

- Concern with respect to use of the shed

4.0 Planning History

No recent relevant planning history associated with the subject appeal site.

5.0 Policy Context

5.1. Development Plan

The site is governed by the policies and provisions contained in the Kerry County Development Plan 2015-2021. The site is located in an area zoned 'Rural General' which is detailed in section 3.3.2.1 of the Plan. Outside of the settlement boundary for 'Spa'. 'These areas constitute the least sensitive landscapes through the county and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character.'

The following sections of the Development Plan are of relevance:

Section 4.8.1 Agriculture

Section 10.2 Environmental Designations

Objective NE-11, Objective NE-12 and Objective NE-13

Chapter 12 Zoning and Landscape Protection

Objective ZL-1 Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to people's lives.

Chapter 13 Sets out the Development Management considerations

Section 13.12 Agricultural Buildings

Section 12.4 Deals with Views and prospects

The appeal site is not within the line of Protected Views and Prospects. Designated Views along the R558 are in a southerly direction and are one direction only. This view does not overlook the appeal site – designated view is in the opposite direction towards the coastline as per Map 12.1e Amenities /Views and Prospects.

5.2. Natural Heritage Designations

The site is located within 15 Km of the following Natura 2000 sites:

- Stacks to Mullaghareirk Mountains West Limerick Hills and Mount Eagle SPA,
- Tralee Bay Complex SPA
- Tralee Bay and Magharees Peninsula, West to Cloghane SAC
- Ballyseedy Wood SAC
- Akeragh, Banna and Barrow Harbour SAC

6.0 The Appeal

6.1. Grounds of Appeal

- The appellants property is located to the immediate north of the proposed development.
- The proposed structure is to be located 10m from the shared party boundary.
- Concern with respect to the scale and height of the proposed structure.
- The need for the scale of the structure has not been justified, or established.
- The appellants property is single storey bungalow.
- The northern wall (4.2m high and a blank roof which will extend to 6.2m in height) of the proposed structure will face the front garden and south facing conservatory of the appellants property.
- The leylandii trees currently in place in the appellants front garden will eventually have to be removed.
- When the trees are removed the proposed structure will form an 18m long by 6.2m high blank structure which will dominate the front garden.
- Loss of view
- The building is proposed on the highest / most elevated part of the field.
- The structure is proposed remote from the applicant's residence.

- The applicant has full control over the entire field and the structure should be relocated to the southern corner of the site.
- Devaluation of the appellants property.

Appeal accompanied with:

- Copy of the draft decision Reg. Ref. 17/476
- Letter from the appellant Peter Flaherty
 - Reiterates concerns with respect to impact of proximity, scale and height of the proposed shed on his property.
 - Screening in place is bare and transparent for much of the year and is not adequate to screen such a large structure.
 - Unfair to locate the structure so close to appellants property.
 - Structure should be relocated on site to a more suitable location.

6.2. Planning Authority Response

None Received.

6.3. First Party Response

6.3.1. A response was received from SJK Engineering & Surveying Ltd. on behalf of the first Party, it is summarised as follows:

- The proposed farm building is required by the applicant for the continued use of farming the lands and for storage of farm machinery.
- The appeal site is zoned agricultural and as such the use is in keeping with the zoning.
- There is currently a natural boundary ditch with Leylandii trees / heavy ditch line located on the party boundary with the appellant's property which shelters the existing dwelling.
- No direct visual impact.
- Removal of the trees is not something the applicant can control.

- The application boundary was revised following advice with regard to pre-development archaeological testing.
- The size of the shed is required for the storage of farm vehicles, this is the subject of condition 4 of the draft permission.
- The location of the development was chosen as it is the least intrusive location on the landholding owned by the applicant.

Response accompanied with:

- Letter of from Lawrence Dunne MIAI justifying revised site boundaries and reduced site area to under 0.5 ha. Thereby there would be no necessity to undertake archaeological testing.
- There are no recorded archaeological sites in the vicinity of the proposed development.
- Copy of F.I
- Copy of response to F.I.

7.0 Assessment

I consider the key issues in determining this appeal are as follows:

- **Principle of the Proposed Development**
- **Visual Impact**
- **Impact Upon Residential Amenity**
- **Appropriate Assessment**

7.1. Principle of the Proposed Development

- 7.1.1. The appeal site is located in an area zoned 'Rural General' which is detailed in section 3.3.2.1 of the Kerry County Development Plan 2015-2021. It is stated: 'These areas constitute the least sensitive landscapes throughout the county and from a

visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character.

- 7.1.2. The current proposal is for the construction of an approx. 224 sq. m agricultural shed, 6.4 m in height, of P.V.C sheeting to roof and concrete walls and P.V.C finish to elevations. To be used for storage of farm machinery, equipment and agricultural feed (incl. Holland Tractor, Manure Spreader, Farm Jeep year 2003, Grass mower for Tractor, Cattle Box, Sheep Gates / Fencing equipment / animal feed) on a greenfield site, on an agricultural landholding, in a rural area which is heavily dominated by sporadic one-off housing.
- 7.1.3. The applicant submits that he is a part time farmer with cattle and sheep and has full employment with Paddy Wagon as a driver. The shed is required to store farm machinery and farm material / feed to operate his part time farm business. Section 4.8.1 Agriculture of the Plan states that 'Agriculture is the second largest employer in the County, with 5,621 working in the Agriculture, Forestry and Fishing Sectors...it is an objective of the Council to support the sustainable development and diversification of the agricultural sector.'
- 7.1.4. I highlight section 13.12 of the Plan which relates to Agricultural Buildings, it requires that proximity to adjacent dwellings, the rural character of the area, utilisation of natural landscape and land cover as screening, waste management in terms of storage and disposal and environmental carrying capacity shall be taken into account in all proposals for new agricultural buildings.
- 7.1.5. The appeal site comprises 0.43 ha of an overall landholding / field at this location of some 5.867 ha. The lands are presently in use as pasturelands. Albeit, the appeal site is located on the highest part of the field, it is generally flat with heavy natural screening to its northern and eastern boundaries. The shed is located 10 m from the party boundary with the appellants dwelling to the north and is set back 25m from the eastern / roadside boundary.
- 7.1.6. The proposal is for an agricultural shed for storage purposes. Such development is consistent with the pattern of development in the area, and is broadly supported by the policies of the development plan, subject to the preservation of landscape amenity, including residential amenities in the vicinity. I note condition 4 of the draft decision to grant permission by the p.a. I recommend that should the Board agree

that permission be forthcoming in the subject instance that this condition or similar, regulating the use of the shed, be included in any decision to grant.

- 7.1.7. Subject to condition, restricting the use to that set out in the application, I am of the opinion the proposal is wholly acceptable in this zoned 'rural general' and working agricultural area.

7.2. Visual Impact

- 7.2.1. The shed of some stated 224 sq. m and an apex height of approx. 6.4m is to be set back from the public road by 25m and 10 m from the northern site boundary with the appellants property, some 33.5m from the appellants dwelling itself. The proposed scale and height of the shed has the characteristic of a modern standard agricultural shed. I consider that, given landscape character, proposed planting and subject to condition, the agricultural building would have a relatively minor visual impact and would not give rise to a visually incongruous feature.
- 7.2.2. In particular I note condition 2 of the draft grant of permission by the p.a. which requires that the cladding / exterior finish shall be in a dark brown, dark grey or olive green colour. Condition 3 which requires that the FFL shall not be more than 250mm above existing ground level measured at the lowest point along the external walls of the shed. I also note condition 9 which requires natural screening to be put in place to the south-western and south-eastern revised site boundaries. Indigenous, only, species are proposed in the landscape plan and no leylandii trees are proposed. I agree such conditions are reasonable and enforceable and should be included in any decision to grant permission forthcoming from An Bord Pleanala.
- 7.2.3. The appeal site is not within the line of Protected Views and Prospects, as per Map 12.1e Amenities /Views and Prospects. Designated Views along the R558 are in a southerly direction and are one direction only. This view is somewhat distant and does not overlook the appeal site – designated view is in the opposite direction towards the coastline.
- 7.2.4. I highlight that the proposal is for an agricultural structure in a rural setting, the proposed shed would, therefore, be generally consistent with the visual character of

the area. As such, I consider the proposed development is acceptable in visual terms.

7.3. Impact Upon Residential Amenity

- 7.3.1. The distance of the proposed shed from the appellants dwelling, is in excess of 33.5 m at its closest point. There is a ditch and high tree screening along the northern boundary screening the appeal site from the appellants property. This screening is within the control of the appellants. The use of the shed is for agricultural purposes, indicated as, storage of agricultural items and equipment. The further information response letter received on the 05/09/2017 sets out in detail the agricultural items and equipment to be stored in the shed. It is specifically stated that it shall not be used for housing of animals or any other use other than specified in the further information response. I again note condition 4 of the draft decision to grant permission and I consider such a condition restricting the use is justifiable, reasonable and enforceable. Therefore, I do not believe that the proposed development would be likely to impact negatively on residential amenity currently enjoyed by the neighbouring dwelling.
- 7.3.2. While the proposed development may cause a slight increase in terms of traffic, noise and general activity on the subject site, such activities and impacts would not, in my opinion, be unduly injurious, and would be consistent with what could reasonably be expected in a rural area.
- 7.3.3. I note the conditions attached by the planning authority, to the draft grant of permission (Reg. Ref.17/476), with respect to landscaping and lighting and I recommend that should the Board agree that planning permission be forthcoming, in the subject appeal case, that similar conditions be reattached to any decision to grant permission.

7.4. Appropriate Assessment

- 7.4.1. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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

- 8.1.1. I recommend that the decision of the planning authority be upheld and planning permission be Granted to the proposed development.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the 'Rural General' landscape zoning designation of the site, the separation distances to existing adjoining dwellings, the pattern of development in the vicinity, the existing and proposed screening and planting on the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development 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, as amended by the further plans and particulars submitted on the 05/09/2017, 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. (i) All concrete walls shall have externally rendered finishes.
- (ii) All proposed cladding / exterior finish shall be dark brown, dark grey or olive green.

Reason: In the interest of visual amenity.

3. (i) The FFL shall not be more than 250mm above existing ground level measured at the lowest point along the external walls of the shed.
- (ii) Within one month of the grant of permission, the applicant shall submit, for the written agreement of the planning authority, cross – sections through the site indicating the existing and proposed ground levels, public road level and the proposed finished floor level.
- (iii) The levels shall be referenced to a clearly identifiable and easily located benchmark on the public roadway. The location and value of the benchmark shall be indicated on the drawing.

Reason: In the interest of visual amenity.

4. The shed shall be used solely for the storage of agricultural items and equipment as set out in the further information response submitted to the planning authority on the 05/09/2017, and shall not be used for the housing of animals or any other use other than that specified.

Reason: In the interest of residential amenity.

5. (i) Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-
- (ii) 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 the foul effluent drains, foul effluent and slurry storage tanks or to the public road.
- (iii) All soiled waters shall be directed to a storage tank.

Reason: In the interest of environmental protection and public health

6. The existing roadside boundary shall be retained except where its removal is necessary for the construction of an entrance with adequate sight lines as shown on Site Layout Map received on the 05/09/2017.

Reason: In the interest of visual amenity and traffic safety.

7. A landscape plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. It shall include:

- (i) Proposals for screen planting along the south-western and south-eastern revised site boundaries as indicated on the site plan received on the 05/09/2017, as well as where it is proposed to close up the existing entrance on the roadside boundary.

(ii) The site shall be landscaped, using only indigenous deciduous trees and hedging species, such as

- Native Evergreens (Holly, Scots Pine, Yew)
- Native Deciduous (Oak, Elm, Ash, Birch, Hazel, Alder, Willow, Whitethorn, Blackthorn, Irish Whitebeam, Rowan)
- Exotic species such as Cypress, Leylandii, Rhododendron or Laurel, shall not be used.

(iii) 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 screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity

8. Any external lighting shall be properly cowled and directed away from the public roadway and from the property to the north. It shall also not be visible from any point more than 100m away from the light.

Reason: In the interest of traffic safety and to control light pollution in the rural environment.

Fiona Fair

Planning Inspector

22.05.2018