



An  
Bord  
Pleanála

## Inspector's Report ABP-301750-18

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<b>Development</b>	Retention of a storage shed. Gross floor space of work to be retained 17.4 sqm.
<b>Location</b>	Killeeneenmore, Craughwell, Co Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	18253
<b>Applicants</b>	Castlehill Retail & Properties Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Castlehill Retail & Properties Ltd.
<b>Observers</b>	Maree McNamara Noreen Cassidy
<b>Date of Site Inspection</b>	31 July 2018
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1.1. The site is located at Killeeneenmore, Craughwell, Co Galway at the end of a short cul-de-sac minor local road. This road extends south from an important local road which runs east-west joining Kilcolcolgan to Craughwell (4km to the east).
- 1.1.2. The minor local road which ends at a gateway displaying notices for users of the extensive land (commonage) beyond the gateway which on the date of inspection formed a broad plain of mainly dry land extending for miles in a north-east south-west direction and about a half mile south eastwards from the gateway. This plain, which is the Rahasane Turlough, is one small field away from the subject site.
- 1.2. The subject site is bounded by stone walls including a recently constructed roadside wall of blockwork on the inside and stone facing on the roadside, splayed at the site entrance gateway. There are trees along the north western boundary and south-western boundaries which are the remains of a more extensive group of mature trees.
- 1.3. To the north west of the subject site a dwelling adjoins the site. There is also a dwelling on the opposite side of the roadway. Two other dwellings take access from the cul-de-sac roadway. A significant amount of one-off housing is apparent in the general area which is otherwise in agricultural use.
- 1.4. The subject site is L shaped extending along part of the roadside to the front of the adjoining dwelling. Set well back from the road there is a small shed: a stone gable elevation towards the road and metal cladding to the roof and side walls, with a metal door in the south-eastern elevation. This building has an antenna and several cameras attached to the walls/roof. Forward of the shed there is a very large stone boulder/rock, at least some of which, from the lack of vegetation thereon, appears to have been unearthed in recent times.
- 1.5. The appeal site is given as 0.20ha.

## 2.0 Proposed Development

- 2.1.1. The development proposed is retention of a storage shed. The gross floor space of work to be retained is stated as 17.4 sqm.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Galway County Council decided to refuse permission for one reason:

In the absence of the lack of satisfactory justification for the use of the storage shed to be retained in an unserviced rural area, it is considered that the proposed development to be retained would set an undesirable precedent for similar future development would infringe an existing building line, would interfere with the character of the rural landscape and would therefore be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

- The site is drained by the Kilcolgan River.
- The site is within the zone of influence of Galway Airport and all developments exceeding 90m are subject to development controls.
- The site is not within a flood risk area.
- A number of planning applications for dwelling house have been refused /withdrawn over the years (08/2725, 08/3473 & 09/2306) on the site.
- No details have been provided in relation to its use or its necessity on the site.
- Photographs taken at the time of inspection are attached to the report.

### 3.3. Third Party Observations

3.3.1. Third party observations on the file have been read and noted.

## 4.0 Planning History

None stated.

Planning report refers to refused /withdrawn applications for a dwelling house: 08/2725, 08/3473 & 09/2306, no details given.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. Galway County Development Plan 2015-2021 is the operative plan, relevant provisions include:

Policy NHB 4 – Water Resources - Protect, conserve and enhance the water resources of the County, including, rivers, streams, lakes, wetlands, springs, turloughs, surface water and groundwater quality, as well as surface waters, aquatic and wetland habitats and freshwater and water dependant species and seek to protect and conserve the quality, character and features of inland waterways by controlling developments close to navigable and non-navigable waterways.

Other relevant provisions include those directed at the protection of biodiversity and protection of European sites.

### 5.2. Natural Heritage Designations

Rathshane Turlough SPA 004089, Rathshane Turlough SAC 000322, (and Rathshane Turlough pNHA 000322), are the nearest Natura Sites, located approx. 40m from the subject site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The first party appeal from Stephen Dowds Associates on behalf of Castlehill Retail & Properties Ltd includes:

- It is a very small building and a very minor development and they find it difficult to appreciate the Council's concerns. It is not an attempt to get a house on the site by surreptitious means or to serve a function as any significant type of commercial operation.
- It is a small shed, domestic in nature and purpose which would normally be exempt. The only reason that it is not is that it does not stand within the curtilage of a dwelling.

- The reason for refusal is challenged. It is not challenged that it is an unserviced rural area but it does not give rise to the need for services.
- Re undesirable precedent; the exemptions available to the house adjoining are cited as are the exemptions for agricultural buildings. Such a small building would not set an undesirable precedent.
- Re infringe a building line, they are unaware of any established building line. It is much farther back from the road than the adjoining house.
- Re interfere with the character of the rural landscape; the site is in the least sensitive landscape class, it is well screened, there are no protected views in the vicinity, no designated scenic roads, and the building is well back from the road and exceptionally small.
- There is no basis for refusing permission.
- It will be used for storing garden tools and the like.

## 6.2. **Planning Authority Response**

6.2.1. No planning authority response has been received to the grounds of appeal.

## 6.3. **Observations**

6.3.1. Two observations on the grounds of appeal have been received:

6.3.2. Maree McNamara Killeeneenmore, Craughwell, Co Galway, has submitted an observation which includes:

- She is concerned about emissions since nobody has any idea what they are doing in the shed. There are 4 cameras mounted on the shed and signage warning of surveillance.
- The location is right on the turlough, an area with 4 international preservation orders including a SAC.

6.3.3. Noreen Cassidy Killeeneenmore, Craughwell, Co Galway, has submitted an observation which includes:

- It is an unauthorised development situated less than 30m from her home.

- In an unserviced rural area with no other buildings or dwellings on the site.
- The site floods; details including photographs are on the Galway County Council website
- A warning letter was issued (2<sup>nd</sup> August 2017) by Galway County Council regarding the construction of the unauthorised shed and the installation of an unauthorised wastewater treatment system.
- An enforcement notice was issued (20<sup>th</sup> October 2017) by Galway County Council, which was ignored.
- The shed has CCTV surveillance cameras on it.
- The shed has an aerial transmitter on it.
- The shed has an external circular vent.
- There is a pump action noise running 24 hours a day. It is a nuisance to children in bedrooms less than 30m away.
- It is on a dead-end laneway and has attracted cars and visitors day and night. There has been an attempted break in at the shed.
- Once enforcement action has commenced it should be unaffected by a planning application. The retention application was not made until March 2018.
- The statement that the shed will be used for the storage of garden tools and the like is totally misleading. Whatever is in the shed requires 3 phase power, surveillance cameras, a transmitter, audible machines and an open vent at the back for ventilation.
- Exemption to planning does not apply as there is no dwelling and there was never any application for planning for the shed. There was no attempt to seek the observer's written consent to have the shed less than 100m from her home.
- The statement that it is not an attempt to get a house on the site by surreptitious means or to serve a function as any significant type of commercial operation is interesting since these issues have not been raised by observers.
- No photographs of the inside of the shed have been provided despite requests from Galway County Council.

- On numerous occasions the observer and her neighbours have attempted to engage with people who stated that they were agents representing the company, when they have been on site to access they shed. They have refused to talk or answer questions as to what is inside the shed.

## 7.0 **Assessment**

The main issues which arise in relation to this development are: appropriate assessment, and the purpose and function of the building, and the following assessment is addressed under these headings

### 7.1. **Appropriate Assessment**

- 7.2. The Board, as the competent authority, has obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects the project may have, either on its own or in combination with other plans and projects, on Natura 2000 sites, before making a decision on the proposed development.

### 7.3. **Screening**

- 7.4. The first exercise to be carried out by the Board is screening, in order to determine if the proposed development, individually or in combination with other plans or projects, is likely to have a significant effect on a European site or sites. If it cannot be excluded, on the basis of objective information that the proposed development will have a significant effect on a Natura site, either individually or in combination with other plans or projects in view of the sites' conservation objectives, it must be subject to appropriate assessment.

- 7.4.1. An Appropriate Assessment Screening Report has not been provided with the application. The planning authority have made a screening determination that Appropriate Assessment is not required.

There are two Natura sites with potential to be impacted by the proposed development: Rathshane Turlough SPA( 004089) and Rathshane Turlough SAC (000322), located approx. 40m from the subject site.

- 7.4.2. The conservation objectives for Rathshane Turlough SPA are to maintain or restore the favourable conservation status of habitats and species of community interest.

7.4.3. The features of interest are:

Whooper Swan (*Cygnus cygnus*) [A038]

Wigeon (*Anas penelope*) [A050]

Golden Plover (*Pluvialis apricaria*) [A140]

Black-tailed Godwit (*Limosa limosa*) [A156]

Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]

Wetland and Waterbirds [A999]

7.4.4. The conservation objectives for Rathshane Turlough SAC 000322 are to maintain or restore the favourable conservation status of habitats and species of community interest.

The feature of interest is turlough.

7.4.5. The ground within the subject site is stated in the Geological Survey mapping as Kartsified bedrock outcrop or subcrop.

7.4.6. The use of the proposed development is stated on the application form as 'not applicable' and in the grounds of appeal it is stated that it will be used for garden tools and the like. Observes question the stated use and note the three phase electricity connection, ventilation, antenna and cameras attached to the building, and they state that noise emanates from the building.

7.4.7. There is nothing on the file which would indicate the current or future use of the building but does not appear to be intended for any use of a type normally associated with a garden shed.

7.4.8. In my opinion there is insufficient information available to the Board in relation to the use of the building to enable the Board to conclude, that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the European sites only 40m away and with surface and ground water path connectivity thereto.



## **7.5. Purpose and Function of the Building**

- 7.5.1. The curtilage of a house has been considered by the Board in a number of referrals, it is the area of land attached to a house and forming one enclosure with it. There is no house on this site.

The reason for refusal refers to the lack of satisfactory justification for the use of the storage shed.

The grounds of appeal states that it is a small shed that would be exempted development if it were within the curtilage of a house and it will be used for garden tools and the like. There is no garden or gardening activity on this site. I am in agreement with the planning authority that there is a lack of satisfactory justification for the use of the storage shed.

## **8.0 Recommendation**

- 8.1. In light of the foregoing assessment I recommend that planning permission for the proposed development be refused based on the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

- 1 On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied 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 Nos. 004089 or 000322, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.'

2 On the basis of the submissions made in connection with the application and appeal, the Board is not satisfied that there is a genuine need for domestic storage or that domestic storage is the likely intended use, it is considered that the proposed development would facilitate the consolidation and intensification of a use for which no permission exists and would constitute the haphazard development of a rural area, and accordingly the proposed development would be contrary to the proper planning and sustainable development of the area.

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Planning Inspector

21 August 2018

### **Appendices**

- 1 Photographs
- 2 Extracts from the Galway County Development Plan 2015-2021
- 3 Site Synopsis Rathshane Turlough SAC 000322
- 4 Site Synopsis Rathshane Turlough SPA 004089.