



An  
Bord  
Pleanála

## Inspector's Report ABP-302271-18

---

<b>Development</b>	Construct a shed
<b>Location</b>	Annagh, Miltown Malbay, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	18237
<b>Applicant</b>	Brian Cahill
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Terry Coombes
<b>Date of Site Inspection</b>	27 September 2018
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1.1. The site is located at Annagh, Miltown Malbay, Co Clare which is rural countryside c4km south of Miltown Malbay. The location is known as Annagh Cross and there is a four arm crossroads to the east and a further forked junction immediately to the south of the crossroads. Annagh national school is on the eastern arm of the crossroads and there is a concentration of one off houses in the vicinity of the crossroads, mostly to the east. The western arm of the crossroads leads to the N67 (c1.2km distance) which runs close to the seashore at that location.
- 1.1.2. The site is part of agricultural lands with a high hedge forming the roadside boundary.
- 1.1.3. The site is given as 0.6ha.

## 2.0 Proposed Development

- 2.1.1. It is proposed to construct a shed with access to the public road and ancillary works. The total floor area of the shed is proposed to be 283m<sup>2</sup> (24.24m x 12.571m x 4.977m high), 173m<sup>2</sup> will be for commercial use (storage of goods for kitchen furniture business) and 110m<sup>2</sup> for agricultural use. The proposal involves the removal of 23m of roadside hedge and its replacement with a post and rail timber fence; and the construction of c 115m of roadway leading to the rear of the site where the proposed building will be erected surrounded by a large apron. The layout plans indicate that the shed is to be divided in two by a wall with agricultural / equestrian storage to the rear in an area of 12m x 9.38m and to the front the larger commercial area, 12m x 14.159m is further subdivided with the larger portion for bulk goods storage and the smaller portion for consumables storage (ironmongery).
- 2.1.2. The application form details state that the agricultural storage is for hay and feed for an existing local equestrian business. Adjacent land (within 0.6ha site) will be used for summer grazing for bloodstock and / or harvesting hay.
- 2.1.3. It is proposed to provide a water connection from the public mains. Surface water will discharge to a watercourse. No wastewater disposal is proposed.
- 2.1.4. The setting back of the roadside wall will necessarily involve piping a drain / stream which runs alongside the boundary (no details given).

2.1.5. The application is accompanied by a letter from the landowner consenting to the application.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. The planning authority decided to grant permission subject to ten conditions, including:

2 a) The use of the commercial aspect of the development shall be limited to the applicant's business only, as described in documentation submitted with the application as received by the Planning Authority on the 27<sup>th</sup> March 2018, and further information received by the Planning Authority on the 7<sup>th</sup> June 2018.

b) The commercial and agricultural activities that are authorised by this permission shall not be open to visiting members of the public or used for any retailing activity.

Reason: In the interests of controlling the intensity of use of the building hereby permitted and to protect the amenities of the area.

5 a) The area between the entrance gate and the edge of the road carriageway shall be excavated over, filled with a compacted granular material, brought to road level with the existing camber continued, drained, and sealed. This work shall be carried out by the developer on their behalf and at their own expense.

b) The finished level of the recessed entrance shall be the same as the road level opposite the entrance gates.

Reason: In the interests of traffic safety and to prevent the flooding of the public road.

9 The site shall be landscaped as follows:

a) The northwest and northeast boundaries of the site shall be planted with lines of native broadleaf trees (minimum size: heavy standard 12-14cm girth).

- b) Hedging of a native species shall be planted along the northwestern side of the fence adjoining the proposed driveway.
- c) This landscaping shall be implemented not later than the first planting season after commencement of the development. Any planting that is diseased or fails within the first planting shall be replaced.

Reason: To protect the character of the rural area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

There are two planning reports on the file.

### 3.2.2. The first, recommending further information on 3 points, which issued:

- 1) Expressing concerns regarding the introduction of commercial use in this rural area and requesting detailed justification including evidence that the commercial storage would not be viable on industrial or commercially zoned land in towns and villages nearby; the exact nature of the activity that will take place, including any manufacturing, assembly, showroom or sales activities and the potential number of employees that will be based at this site; identify any other premises that the business uses for its operations currently, and whether it is intended to relocate activities from those premises; visiting members of the public will be precluded.
- 2) It is stated that the agricultural storage component will serve an existing local equestrian business. Clarify the present location of that business, the typical number of visitors and the hours of operation. If it is ultimately intended to relocate that business to the lands within the site, set out proposals for achieving planning authorisation. Any such activities would require on-site toilet facilities; if such facilities are intended submit proposals.
- 3) The PA is not satisfied that the proposed vehicular entrance will not result in a traffic hazard due to sight distances being potentially obstructed by the roadside boundary ditch which is located in an area which may be outside the control of the applicant.

- a) Requesting revised site layout which shows sightlines of 2.4 x 120m; detailing works envisaged.
- b) Details of the proposed entrance.
- c) Written permission of any neighbouring landowner to the set back required beyond the site boundaries.

3.2.3. The report refers to CDP6.20 Rural Enterprises.

3.2.4. Other Technical Reports

3.2.5. There are no other technical reports on the file.

### 3.3. **Prescribed Bodies**

3.3.1. Irish Water – conditions.

### 3.4. **Third Party Observations**

3.4.1. Third party observations have been read and noted and are similar to the grounds of appeal. It is stated that the applicant has a kitchen sales facility in Mullagh.

## 4.0 **Planning History**

None this site

UD 13-020 unauthorised development – site on the opposite side of the road – construction of stable block within the curtilage of a house; construction of storage structure within the curtilage of a house; provision of a portacabin within the curtilage of a house;

## 5.0 **Policy Context**

### 5.1. **Development Plan**

Chapter two Core Strategy identifies this area as a rural area under strong urban influence and an area of special control.

Delivery of a plan-led Settlement Strategy in line with the integration of services, transport, infrastructure, economic activity, development of natural resources, while

preserving the natural environment and amenities is a critical component of this Development Plan's Core Strategy.

Development Plan Objective CDP3.4: Small Towns - It is an objective of the Development Plan: to ensure that the small towns throughout the County continue to act as important local service centres that maintain sustainable communities, help to ensure a good quality environment, provide public transport to the main centres, ensuring a high quality of life for those who live in the vicinity.

## Chapter 6 Economic Development and Enterprise

6.1 Strategic aims - to encourage, support and facilitate enterprise development at appropriate locations throughout the County; to facilitate the diversification of the County's rural economy and encourage cottage industry and micro-enterprise.

6.3.12 objective CDP6.15 Re-use of Brownfield Sites in urban and rural areas for industrial, enterprise or cultural developments.

6.3.17 Rural Enterprise - there is a growing trend for the development of small workshops, some of which are located within the confines of existing houses, in rural areas. Clare County Council will seek to accommodate these wherever possible subject to normal planning considerations, including the suitable expansion of existing facilities. Proposals for other small-scale enterprise in rural areas will be considered on their individual merits, including:

- the nature of the activity;
- where the workforce is likely to be sourced;
- evidence that its scale is appropriate to a rural area;
- evidence that the enterprise would not be viable on industrial or commercially zoned land in towns and villages nearby;
- evidence that a suitable site is available.

Objective CDP6.20 - Rural Enterprises To support rural enterprise and the rural economy by: a) Permitting the development of rural resource based industries in rural areas subject to compliance with appropriate planning and services requirements; b) Supporting and facilitating proposals for new small-scale rural

enterprises or extensions to existing small-scale, rural-based, indigenous industries subject to compliance with appropriate planning and services requirements; c) Encouraging new commercial uses for vacant or derelict buildings, including historic buildings and buildings in rural areas subject to compliance with appropriate planning, wildlife legislation and services requirements.

(6.3.20) Home-Based Economic Activity - Home-based economic activity, defined as conversion of part of a house to a home-based (non-retail) business, is increasing significantly as a result of advances in technology and the increased opportunities to work from home. Working from home can reduce the need to commute and provides opportunities for all areas of the County to generate employment, thereby supporting rural and urban areas from both a social and economic perspective.

Objective CDP6.23 - Home Based Economic Activity a) to support the conversion of part of a dwelling to an appropriate home-based economic activity, where the dwelling remains as the main residence of the practitioner; b) to co-operate with and facilitate government agencies and other bodies where feasible, in encouraging home-based employment; c) to promote and facilitate the development of: e-town, home-based employment; 'electronic courtyard' developments in villages and rural areas; improved communication networks throughout the County.

(10.3.2) In relation to Economic Development in Rural Areas there is reference to a Stimulus Programme that focuses on rural towns/villages and their hinterlands. The programme will be set within the context of identified Rural Economic Development Zones (REDZ) and will facilitate a collective approach to identifying, valuing and building a town's resources and distinctiveness.

The settlement hierarchy identifies

## 5.2. Natural Heritage Designations

- 5.2.1. The Mid-Clare Coast SPA site code 004182 and the Carrowmore Point to Spanish Point and Islands SAC site code 001021, are the nearest Natura sites located c1.2km away.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A third party appeal against the decision to grant permission, has been made by Cunnane, Stratton, Reynolds, Land Planning & Design on behalf of Mr Terry Coombes, The Dell, Annagh, Miltown Malbay. The grounds includes:

- Inaccurate description of the proposed development and intended use.
  - The description 'shed' is misleading.
  - There are two windows. A shed does not need windows.
  - The proposal includes 6 parking spaces. The applicant is described as a sole operator and that there would be no visiting public.
  - The need for hours of operation, if only intended for storage, is questioned. From the planning documents the structure is more akin to a small scale commercial industrial workshop than a shed.
  - The application form describes the development as storage of goods for kitchen/furniture business. This is inaccurate and misleading. In response to the further information request it is stated that 'the applicant has a small business supplying and installing kitchens in the local West Clare area. The business entails purchasing manufactured carcasses, doors, work-tops and other ancillary components and assembling them prior to installation. Often times bespoke additions or alterations are required'. From this it is clear that manufacturing is involved; a degree of fabrication will take place; various items of machinery will be used. This is not a suitable location for such activity.
  - Re the equestrian business. At the outset no details of scale, ownership, proximity to proposed development, number of people employed or number and type of traffic generated, were given. From the further information response it is stated that it is not a business but a family hobby. The third party states that the local equestrian business was unauthorised and subject to enforcement. The third party states that the



permission granted involves extension to an unauthorised development.

The third party questions the legality of the permission.

- Non-compliance with development plan policy regarding rural enterprise.
- The CDP states that rural enterprises will be considered on their merits based on criteria:
  - Nature – the nature of the proposed development – sensitive landscape and inadequate vehicular access arrangements is inappropriate.
  - Workforce – no indication given. Where the traffic will come from is not given. No evidence that it needs to be located here. Where will the kitchen units be made?
  - Scale – the development is overscaled for this location. Impact in visually sensitive location, on the horizon, impact on visual amenity of those living nearby including the third party.
  - Evidence that it would not be viable on zoned land – it should be located within an existing settlement where services and access, employees as well as potential market's are most likely located.
  - Suitable site – this is not a suitable site.
  - Inconsistent with policy 6.20. It is not small scale, not a rural enterprise, not an extension (A&B) and does not use vacant or derelict buildings (C). The planner fails to assess against these policy requirements.
- Inadequate roads infrastructure & excessive generation of heavy commercial traffic -located along a narrow single width laneway. Inadequate to accommodate any commercial or storage vehicle. It is inadequate to accommodate such vehicles on their own, without considering accommodating two-way traffic of such. Potential danger posed to pedestrians and in particular children going to the local school a few hundred metres away.
- Negative visual impact - Policy in relation to settled landscapes is cited. The proposed structure is on the most elevated and most prominent part of the

site and this is clear from the contours; several metres higher than the lowest part. It is oversized and visually obtrusive. A photo of a view over the site is supplied. The third party's quality of life would be impacted. The siting and design do not minimise the impact. Visibility from scenic routes, walking trails, public amenities, is maximised not minimised. The proposed development would be visible from two defined scenic routes.

- Absence of appropriate assessment screening – No AA screening report was submitted. The site is 1.5km east of the Mid-Clare Coast SPA and the Carrowmore Point to Spanish Point and Islands SAC and an AA screening report is required as part of the application. They request the Board to consider the negative environmental implications of the intended commercial use which may entail the use of chemicals in the form of adhesives and varnishes and the potential for harm these may cause to Natura 2000 sites.

## **6.2. Applicant Response**

- 6.2.1. Michael Duffy BE CEng, MIEI has responded on behalf of the applicant to the grounds of appeal, stating that the first party has nothing further to submit.

## **6.3. Planning Authority Response**

- 6.3.1. The Planning Authority has not responded, within the time given, to the grounds of appeal.

## **7.0 Assessment**

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, environmental impact assessment, compliance with development plan, traffic, water and waste services and other issues and the following assessment is dealt with under those headings.

## **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

### **7.3. Environmental Impact Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **7.4. Compliance with Development Plan**

- 7.4.1. In the development plan this area is designated an area under strong urban pressure. There are scenic routes to the west and north. The settlement hierarchy identifies Miltown Malbay to the north as a small town, and Mullagh to the south as a large village. Quilty to the west is also identified as a large village. These settlements are shown on Map 3A.
- 7.4.2. The most relevant development plan provision is Objective CDP6.20 which is an objective to support rural enterprise and the rural economy by permitting the development of rural resource based industries in rural areas subject to compliance with appropriate planning and services requirements; supporting and facilitating proposals for new small-scale rural enterprises or extensions to existing small-scale, rural-based, indigenous industries subject to compliance with appropriate planning and services requirements; and encouraging new commercial uses for vacant or derelict buildings, including historic buildings and buildings in rural areas subject to compliance with appropriate planning, wildlife legislation and services requirements.
- 7.4.3. The Plan also refers in this regard to 'small workshops, some of which are located within the confines of existing houses, in rural areas. Clare County Council will seek to accommodate these wherever possible subject to normal planning considerations, including the suitable expansion of existing facilities. Proposals for other small-scale enterprise in rural areas will be considered on their individual merits, including:
- the nature of the activity;
  - where the workforce is likely to be sourced;

- evidence that its scale is appropriate to a rural area;
- evidence that the enterprise would not be viable on industrial or commercially zoned land in towns and villages nearby;
- evidence that a suitable site is available.

7.4.4. In relation to these provisions the proposed development is not located within the confines of an existing house; it is not an expansion of an existing facility on this site but is rather a new development on agricultural land which is not land owned by the applicant or attached to his dwelling. It is not clear where the associated business is located. In an observation to the planning authority it is stated that the first party has a kitchen sales facility in Mullagh. Mullagh appears to be a rural settlement in need of economic development.

7.4.5. In response to item 1 of the PA's letter requesting further information, (which expressed concerns regarding the introduction of commercial use in this rural area and requesting detailed justification including evidence that the commercial storage would not be viable on industrial or commercially zoned land in towns and villages nearby; the exact nature of the activity that will take place, including any manufacturing, assembly, showroom or sales activities and the potential number of employees that will be based at this site; identify any other premises that the business uses for its operations currently, and whether it is intended to relocate activities from those premises; visiting members of the public will be precluded), the further information submitted included:

The business is small with only 1 employee. The Mullagh house is for sale and will soon be unavailable. First party has looked at premises in Miltown but rents and rates could not be sustained by such a small business. Purchasing a commercial building in town simply isn't a financial option.

7.4.6. In my opinion this response is not evidence that the enterprise would not be viable on industrial or commercially zoned land in a town or village nearby.

7.4.7. The enhancement and future growth of towns and villages is part of the core strategy of the Development Plan wherein it is an objective to ensure that small settlements throughout the County continue to act as important local service centres. The proposal is effectively to relocate a service/enterprise from a settlement identified in the settlement hierarchy to a rural area. Mullagh is identified the settlement hierarchy

as a 'large village' and it has the appearance of a village in decline. Rather than enhancing or growing a settlement, in line with the core strategy of the Plan, the proposal would contribute to the decline of an identified settlement.

- 7.4.8. In relation to the agricultural storage proposed, I am unclear as to the exact nature of the use, stated to be related to equestrian activity, and whether or not it can accurately be described as agriculture.
- 7.4.9. In my opinion the proposed development is not supported by the development plan provisions regarding rural enterprise and the site is unsuitable for the type and scale of the development proposed, and this is a reason to refuse permission

## **7.5. Traffic**

- 7.5.1. It is of concern to the third party that the road serving the site is narrow and unsuitable for the type and number of vehicles which would be generated by the proposed development, particularly in the context of a national school in the vicinity. This issue was not explored as part of the planning application, therefore the type and frequency of vehicles which would be used in the commercial or agricultural uses proposed is not known.
- 7.5.2. This road and many of those in the surrounding area are narrow rural roads and are not suitable for use by large vehicles.

## **7.6. Water and Waste Services**

- 7.6.1. The proposed development involves connecting to a water supply but no wastewater disposal is proposed. This matter would require clarification before any permission could be issued.
- 7.6.2. No details of the exact nature of the commercial activity which is to be carried on have been given. This is a concern raised by the third party.
- 7.6.3. It is noted that the activity is described as storage. Storage would generate solid waste and no details of provision for same have been given. This matter would require clarification before any permission could be issued.

## **7.7. Visual Amenity**

- 7.7.1. It is of concern to the third party that the siting of the large building of 24.24m x 12.571m x 4.977m high, at the highest point in the field, would be visible from two designated touring routes and would impact on the visual amenities he currently enjoys.
- 7.7.2. One of the designated scenic routes referred to runs east from Miltown Malbay which is a considerable distance to the north, the other is the N67, which is part of the Wild Atlantic Way, and which is a considerable distance to the west. It is possible that the proposed development could be glimpsed from some part of these routes, but it is unlikely, due to the distances involved, that the proposed development would have any significant impact on the visual amenities of these routes.
- 7.7.3. The proposed development would appear on the horizon as viewed from the third parties house. This would not be a reason to refuse permission.

## **7.8. Other Issues**

- 7.8.1. A concern raised by the third party is development at the first party's dwelling on the opposite side of the road have been the subject of enforcement proceedings and that the proposed development is therefore an extension to an unauthorised development.
- 7.8.2. In my opinion the proposed development would not be an extension to any development at the first party's dwelling on the opposite side of the road.

## **8.0 Recommendation**

- 8.1. In the light of the above assessment I recommend that planning permission be refused for the following reasons.

## 9.0 Reasons and Considerations

The spatial development principles of the planning authority, set out in the Clare County Development Plan 2017-2023, provide for development in accordance with the settlement strategy, which broadly supports development in towns and villages to reinforce these settlements and also make provision for supporting rural communities through facilitating sustainable activities or uses in rural areas. It is considered that by reason of its nature, which is not locally resource-based, its substantial scale, the potential presented for traffic congestion and hazard on narrow rural roads, and the incongruous quasi-industrial appearance of the structure, the development proposed in this rural location would not comply with these policies, and would accordingly be contrary to the proper planning and sustainable development of the area.

---

Planning Inspector

12<sup>th</sup> December 2018

Appendix 1 Photographs

Appendix 2 Extracts from the Clare County Council Development Plan 2017-2023