



An
Bord
Pleanála

Inspector's Report ABP 303075-18.

Development	Retention of existing foundation, floor and portal frames of proposed agricultural building and to construct lean-to extension to the rear of the main building.
Location	Ballagh, Newtownforbes, Co. Longford.
Planning Authority	Longford County Council.
Planning Authority Reg. Ref.	18203.
Applicant	Albert Manning.
Type of Application	Retention Permission & Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party.
Appellant	Eugene Donohoe.
Observers	None.
Date of Site Inspection	19 th February 2019.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of c.0.176 hectares, is located in the rural townland of Ballagh, c.2km northwest of Newtownforbes, County Longford. The site is accessed via a field entrance off a county road that connects to the N4 (Sligo to Dublin National Primary Road) c. 800m to the southwest.
- 1.2. The site, is located to the rear of the applicant's two storey house, a number of containers were observed, the steel frame and floor slab for a structure and hardcore yard. There was no evidence of livestock at the time of inspection.
- 1.3. The appeal site is taken from a larger field and is separated from the applicant's house by a timber fence. Access is via a dirt track through a field that is located to the south of the applicant's house and to the north of the appellant's house, a detached two storey house.
- 1.4. The steel frame is visible from the public road on the southern approach to the site. The area is characterised by ribbon development.

2.0 Proposed Development

- 2.1. The proposed development consists of the retention and completion of an agricultural shed. The floor slab and steel frame are in place. Permission is sought to complete the structure and add a lean-to element.

A total proposed gfa of c.330sq.m and a height of c.7.2m

Supplementary information on file refers to the proposed use to cater for 2/3 horses during the winter months.

The newspaper notices describe the structure as an agricultural building.

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 11 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officers report can be summarised as follows:

- The agricultural shed would be located to the rear of the applicant's house and screened by mature hedgerow. It would not be visibly intrusive from the adjoining roadway.
- The principle of the development was considered acceptable.

3.2.2. Other Technical Reports

Area Engineer. No objection subject to conditions

3.3. Third Party Observations

A submission was lodged with the planning authority by the current appellant. The issues raised are broadly in line with the grounds of appeal and are dealt with in the relevant section of this report.

4.0 Planning History

None as per planning register.

UNA 1191. Refers to planning enforcement action relating to the current application.

5.0 Policy Context

5.1. Longford County Development Plan 2015-2021

The County Development Plan does not identify any designated views, prospects or scenic routes in the vicinity of the appeal site.

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.

5.2. Natural Heritage Designations

5.2.1 There are none in the immediate vicinity. The nearest designated site is Ballykenny-Fisherstown Bog SPA, c.1.2km to the southwest of the site.

5.3 Environmental Impact Assessment Screening

5.3.1 Having regard to the nature and scale of the development which consists of an agricultural shed in a rural location, there is no real likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been lodged by the neighbouring property owner, Eugene Donohoe. The appeal includes a copy of his original submission to the planning authority. The grounds of appeal can be summarised as follows:

- The planning application has technical errors and is, therefore, invalid.
- The development commenced without the benefit of planning permission.

- The public notices do not state the proposed use of the structure.
- The proposed access constitutes a traffic hazard. Works to achieve the required sightlines would require the removal of the appellant's roadside boundary. The appellant does not give his consent to any interference with his boundary.
- The proposed development would adversely affect the residential amenities of his property.

6.2. Applicant Response

A response to the appeal was submitted by the applicant and can be summarised as follows:

- The Planning Application was deemed valid by Longford County Council. No issues was raised relating to the information submitted.
- The proposed development is set back in excess of 60m from the appellant's dwelling and over 50m from the rear of said dwelling, no visual intrusion occurs.
- The access road to the site is an existing road which serves the rear of the applicant's dwelling. If, in the future the site of the proposed development was transferred to a third party, this roadway would become a right of way.
- The sightlines along the public road at the entrance. Exit to/from the development are adequate for the category of public road. The traffic generated by the proposed development would be minimal.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

I consider the key issues in determining the appeal area as follows:

- Principle of development.
- Validity of application.
- Residential & Visual Amenity.
- Traffic.
- Appropriate Assessment

7.1 Principle of development.

7.1.1 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.

7.1.2 The grounds of appeal have raised concerns pertaining to the principle of the development due to the lack of information on file relating to the proposed use. There are inconsistencies throughout the documentation relating to the proposed use. The documentation has referred to the structure as an agricultural building, a general purpose agricultural building and as a structure to house 2/3 horses in the winter months.

- 7.1.3 The application site with a stated area of c. 0.176 hectares is taken from the applicant's landholding of c.1.9hectares. The floor plans submitted with the application identify a section for 'horses only' and a section for 'storage'. The applicant has indicated in documentation on file that the structure would be used for general agricultural purposes and to cater for 2/3 horses in the winter.
- 7.1.5 Having regard to the nature of the development for which retention permission and permission for its completion 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 is acceptable in principle subject to compliance with the relevant development management requirements and national standards.

7.2 Validity of application.

- 7.2.1 The planning application was deemed valid by Longford County Council. A valid appeal has been lodged and the purpose of this report is the assessment of the appeal.

7.3 Residential & Visual Amenity.

- 7.3.1 The applicant is seeking permission to retain and complete a c. 330sq.m structure with a height of c.7.2m and a lean to element. The steel frame located to the rear of the applicants dwelling gives no indication of the potential use of the structure, the frame could resemble an agricultural structure or an industrial/commercial one. There is a serious lacuna of information on file relating to the use of the structure once completed. The development has been described as a general purpose agricultural store and also as a building for the overwintering of horses. Each of which have different implications for public health.

- 7.3.2 The appellant contends that the development has created a nuisance for him and would detract from his residential amenities. The appellant has not expanded on the nature of the nuisance.
- 7.3.3 I acknowledge that the use of a structure for the overwintering of horses would result in an increase in noise and odours and additional traffic to the site to provide fodder. This has not been addressed in the documentation on file.
- 7.3.4 The Site Layout Plan submitted with the application does not include details relating to runoff or surface water disposal. The floor plans submitted indicate 'horses only' in the main building and 'storage' in the lean-to element. There are no stables/stalls shown. While no effluent would arise from the storage element of the development, the stabling of horses would give rise to manure, used bedding etc. that will require disposal. There are no details on file relating to effluent storage and disposal.
- 7.3.5 With regard to effluent arising from the use of the structure for horses. The Lean-to is indicated as 'storage' but it is not clear what type of storage this relates to. I would comment that the landholding is particularly small relative to the size of the proposed structure. It is unclear how the applicant is to dispose of the effluent as there clearly is not adequate land within the landholding for spreading. In the interests of avoiding pollution this matter should be resolved prior to the granting of any permission for the retention of stables.
- 7.3.6 For the purposes of clarity, the development to be retained as per the public notices does not constitute exempted development for a number of reasons. Firstly, the size of the structure to be retained clearly exceeds the threshold provided for in the exempted development provisions in the Planning and Development Regulations. And in this instance, effluent may be stored within 100 metres of houses. Whilst this aforementioned distance can be relaxed as part of a planning application, the consent authority should be certain no pollution would occur. In this instance having regard to the extent of the building to be retained and completed in comparison to the limited landholding available for land spreading, it is not considered that it is appropriate to deal with this issue by way of condition.

7.3.7 Based on the information available on file, the applicant has not clearly demonstrated that any proposed use and its associated waste, noise, odours, etc would not have a detrimental impact on the residential amenities of the appellant's house which is c.40m from the structure which is the subject of this application.

7.3.8 In terms of visual impact, I consider, given the prominent nature of the scale of the structure and the location of the site to the rear of residential properties, the proposed building would form a visually discordant and haphazard feature on the landscape. In this instance I do not consider that additional landscaping along the site boundaries would serve to mitigate the visual impact.

7.3 Traffic.

7.4.1 The appellant has set out that the achievement of sightlines at the existing entrance off the public road would require the removal of part of his roadside boundary which he does not consent to.

7.4.2 The concerns of the third party are noted on file and in particular the concerns regarding the entrance off the public road. This application as per the public notices pertain to the retention of the existing foundations, floor and portal frames of the proposed agricultural building, construct external walls, purlins, side and roof cladding and construct a leanto extension to the rear. It does not relate to the access off the public road. It is therefore considered that the remit of the planning considerations in this instance should be confined solely to the works set out in the public notices. It is considered that it is matter for the Planning Authority to pursue the applicant for any non-compliance with any previous permission or for any unauthorised works, if such exist. Therefore the considerations of this report are confined only to description of works outlined in the public notices.

7.4.3 The applicant's response to the appeal has stated that the right of way is shown to indicate this access as a right of way in the event that the structure is transferred to a third party.

7.4.4 The question of ownership is a legal matter and outside the scope of a planning permission. In this context, I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'

7.5 Appropriate Assessment.

7.5.1 Having regard to the nature and scale of the proposed development, which relates to the retention and completion of an agricultural structure 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 Conclusion

The proposal to retain and complete an agricultural structure is considered acceptable in principle having regard to the rural location of the site. However, the scale of the structure to be retained is visually prominent. Additionally, the scale of the development to be retained is not commensurate with the remaining landholding that could be used for land spreading and therefore in the absence of details about the safe disposal of effluent the proposal poses a risk of pollution.

I note the concerns of third parties in relation to the entrance off the public road and consider that having regard to the public notices that this aspect of development does not fall within the remit of this application for consideration.

9.0 Recommendation

I recommend that planning permission should be refused for the reasons and considerations set out below

1. The development to be retained is considered excessive in scale having regard to the limited extent of the landholding to cater for the activities associated with such a structure. The scale and height of the structure to be retained and completed results in a visually discordant and prominent feature on the rural landscape. The development to be retained and completed is therefore considered contrary to the proper planning and sustainable development of the area.
2. In the absence of details as to how the effluent is to be disposed of arising from the development the Board is not satisfied that the proposed development would not be prejudicial to public health.

Dáire McDevitt
Planning Inspector

26th February 2019