



An
Bord
Pleanála

inspector's Report ABP-303288-18

Development	Retention and Permission. Retention of partially constructed shed, permission to reduce height of shed and finish construction.
Location	Fenter, Killeigh, Co. Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	18/425
Applicant(s)	Frank and Mary Egan
Type of Application	Retention and Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Frank and Mary Egan
Observer(s)	Brendan and Kathleen Houlihan
Date of Site Inspection	1 April, 2019
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located approximately 2.5km to the east of the villager of Killeigh and c.8km to the south east of Tullamore. The site is located on a local road that runs east from the village in the direction of Clonygowan.
- 1.2. The area in the vicinity of the appeal site is characterised by individual dwellings and the site comprises a previously undeveloped site located between two residential dwellings. The size of the site is stated to be 0.18 ha.
- 1.3. The site is characterised by an existing agricultural entrance located towards the eastern end of the road frontage and a hardcored area leading from this entrance into the site. At the rear (Northern end) of the site, the foundations and frame of a large shed structure has been erected. As constructed, the existing structure is approximately 6.7 metres in height and measures approximately 24 metres in width by c.12 metres in depth giving an overall area of c.290 sq. metres.
- 1.4. The foundations and steel frame of the shed are constructed such that they are within c.700mm of the site boundary to the west, c.1 metre to the rear (north) and within c.300mm of the boundary with the property to the east.
- 1.5. The applicants are also the owners of the adjoining site to the east. This site has an existing shed structure on its western side which opens onto the appeal site. To the west, the adjoining single storey dwelling is located such that it is c.21 metres from the part constructed shed. Between the dwelling and the shed are located two low level storage sheds.

2.0 Proposed Development

- 2.1. The application comprises a number of elements as follows:
 - The retention of the footprint of the existing shed structure as constructed with a reduction in the overall height of the structure from the current c.6.7 metres above ground level to c.5.68 metres above ground level.

- The alteration of the bay of the shed (c.6 metres in width) that is on the western side of the structure such that it would form a lower scale lean to shed on the side of the main building. The height of this lean to element is proposed to reduce from c.4 metres on the shed side to c.2.5 metres on the western side.
- The completion of the rest of the shed including construction of floor, side panels and roof panels.

2.2. Surface water within the development is proposed to be disposed of to soakpit on site. The development is not proposed to be connected to the water supply or any drainage system.

2.3. It is stated in the application documentation that the lean to element of the shed is proposed to be used to accommodate domestic related equipment including trailers and a boat. The main part of the shed is stated to be used in connection with the agricultural activities of the son of the first party and is proposed to be used to store a tractor and other agricultural equipment. The application documentation indicates that the son of the first party is engaged in tillage farming on lands in the vicinity of Lackamore, c.4km to the south of the appeal site. The application documentation also indicates that the son of the first party has recently been granted planning permission for a dwelling in the Lackamore area.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for a single reason as follows:

1. *It is considered that the development the subject of this application would if permitted be prejudicial to the amenities of adjoining residential property given its size and bulk and would seriously injure the amenities of property in the vicinity 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 report of the Planning Officer notes that the development the subject of the application is not ancillary to an agricultural holding in the vicinity. Considered that is visually over bearing by virtue of its scale and would have negative impacts on the amenity of adjoining properties.

3.2.2. Other Technical Reports

Area Engineer – further information regarding sight lines showing how a sight line of 120 metres can be achieved.

Environment and Water Services – No objection subject to conditions including conditions relating to noise emissions.

3.3. Third Party Observations

An observation received from the adjoining property owner to the west of the site. Grounds of objection can be summarised as follows:

- Note lack of landholding to justify agricultural shed.
- That the shed is far greater size than required to accommodate a tractor,
- Concerns regarding vermin from storage of foodstuffs in shed.
- Existing entrance unsuitable regarding sightlines.
- Concerns regarding noise and lighting.
- That there is an existing shed on the landholding.

4.0 Planning History

No planning applications on the appeal site are referenced in the report of the planning officer.

Offaly Co. Co. UD18/30 – warning letter issued regarding unauthorised shed.

5.0 Policy and Context

5.1. Development Plan

The site is located in a rural area outside of any settlement.

There are a number of policies and sections contained in the Offaly County Development Plan, 2014-2020 that are considered of relevance to the proposed development, including the following:

Section 8.12 relates to agricultural development and states that '*Agricultural buildings and associated works, while accepting the need to be functional, are required to be sympathetic to their surrounds in terms of scale, materials, finishes and siting.*'

Policies relating to rural development are set out at section 2.9 of the Plan.

Policy RDP-01 states that *'it is Council policy to support the development of agriculture where it is compatible with the sustainable development of the county and commensurate with sustaining the farming community'*.

5.2. Natural Heritage Designations

The site is not located within or close to any European sites. The closest European site to the appeal site is the River Barrow and River Nore SAC (site code 002162) which is located c.5km to the south of the appeal site at the closest point.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- That the first party bought this plot of land in 1986 from a local farmer. It was previously part of a larger agricultural holding. The site was used for the growing of various crops and Christmas trees.
- That the first party bought land at Lackamore in 2016 where their son, Kevin, now has a tillage farm. The grain / straw is sold directly from the field and so would not be stored at the shed.
- That the shed was built to house Kevin's agricultural tractor and other machinery and for personal / domestic equipment including a boat trailer and tools.
- That initial contact between the objectors and Kevin when the frame of the shed was erected did not raise issues that work needed to be stopped. When the issue was reported to the council work was stopped.

- The design has been modified by the reduction of the ridge height by 1 metre and the conversion of the bay closest to the observers dwelling to a lean to structure.
- That there is precedent for a similar form of development being permitted by the council and an Bord Pleanála (Ref. PL/16/94; PL19.247818).
- That the location of the shed has been considered primarily on the grounds of security. The applicant do not have access to an alternative secure site.
- That the shed construction is expensive and demonstrates that there is a need. The equipment to be stored is also valuable (valuation enclosed).
- That the higher part of the shed is 27 metres from the observers dwelling and separated by two sheds on their property. The scale of the shed is not out of character with the area or surrounding properties.
- That the Lackamore property where Kevin lives is on an elevated esker area with protected scenic views which prevents him from building farming buildings.
- That the proposed shed is better located than the existing one to protect the amenity of the observers dwelling.
- The proposed screen hedging will protect the observers from views of activity on the site.
- That the separation of the shed to the site boundary is 1.25 metres reducing to c.750 mm at the rear where the boundary is encroaching onto the appellant's property.
- That the site entrance is an existing agricultural entrance. The sight distance can be improved at this location without alteration of roadside boundaries that are outside the control of the first party.
- That the area is predominately agricultural and the movement of agricultural equipment is a regular occurrence.
- That no commercial enterprise is proposed to be undertaken at the site.
- Existing lighting is cowled and any new lighting will be similarly treated.

6.2. Planning Authority Response

The Planning Authority have responded to state that it has no further comments to make on the appeal and the Board is invited to consider the council reports on file.

6.3. Observations

An observation has been submitted by the residents of the adjoining house to the west of the appeal site; Brendan and Kathleen Houlihan. The following is a summary of the main issues raised in this submission:

- That surely the applicants should have known that planning permission was required for the shed.
- That there is an existing shed on the appellant's house site that opens onto the appeal site and faces the observer's property.
- That there is reference by the first party to land at Lackamore (where Kevin – the son of the first party proposes to build a house) but no reference to additional land that is owned by the family.
- That there are ESB wires located to the front of the shed structure. Concern that the site will be illuminated by powerful lighting.
- Given the history of the application is not believed that efforts will be made to keep noise and disturbance down.
- That the first party previously objected to the development of a shed structure c.3/4 mile from the current site on the basis of size, traffic vermin and noise. Ref. 96704.
- Not clear why height of shed is required if it is for the stated purpose of machinery storage and fuel.
- That there are other sheds in the area, including small ones on the observer's site, however these other developments are not located so close to residential properties or of such an impact on dwellings.

- That the activity undertaken on the site to date has resulted in significant noise and loss of amenity due to tractors revving, chainsaws etc.
- That the proposed shed would be clearly visible from the kitchen of the observer's house.
- That the observer (Kathleen Houlihan) has medical issues (copy of letter⁴ from doctor submitted).
- That the development will result in a reduction in property value.
- That the development would encroach on the observers land.
- That the fact that it is a rural area and the need to accommodate agriculture is accepted however the first party has no agricultural landholding in this area and want to turn the appeal site into a farmyard that will impact negatively on the amenity of the observers.
- The observation is accompanied by a letter from AOCA Engineering Consultants that states that:
 - the appeal site was once part of a larger holding but is now a stand-alone site.
 - That the list of items / use of the shed has changed since the initial application.
 - That the similar development / precedent referred to in the first party appeal has a totally different context and is further from any third party houses.
 - That contrary to the statement of the appellants, the shed could be accommodated on the site where the son of the applicant (Kevin Egan) has been granted permission for a house (Laois Co Co. Ref. 18/401).
 - That the existing access is not suitable for use by large machinery and sight lines are inadequate.
 - That the location of the storage shed removed from the agricultural land where it will be used will require unnecessary journeys. It is suggested that the correct location is adjacent to the sons dwelling which is located on the land where the machinery will be used.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of the appeal:

- Principle of Development
- Impact on Residential Amenity
- Design and Visual Impact
- Traffic and Access Considerations
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The appeal site is located in a rural area outside of any identified settlement. The development which is the subject of the application for retention and permission to complete, is stated in the application documentation to be partially for the storage of domestic equipment and partially connected with agricultural activity. The domestic part of the development is directly connected with the adjoining residential property to the east which is in the ownership of the first party. The principle of the use of part of the appeal site as a garage or store connected with the adjoining residential use is considered to be acceptable in principle.
- 7.2.2. The primary use of the proposed development, taking up approximately three quarters of the c.280 sq. metres floor area of the shed, is stated to be connected to agriculture and the storage of agricultural equipment. Specifically, the agricultural use is stated to be related to the tillage farming undertaken by the son of the first party at Lackamore, Co. Laois. The appeal site is not, therefore, directly connected to any agricultural lands and is not part of a farmyard or farm complex. Agricultural buildings are clearly permissible in principle in rural areas, however, in a situation such as this where the agricultural structure is proposed to be located remote from the agricultural lands which they are intended to serve and in close proximity to established residential properties there is, in my opinion an increased onus on any

applicant to justify the location choice and to demonstrate that adverse impacts on residential amenity will not arise.

- 7.2.3. With regard to the existing agricultural activity undertaken by the son of the first party which is the basis for the subject application, the lands where this activity occurs and the potential for the shed to be located on this agricultural holding, limited information has been presented by the first party. It is stated that the son of the first party (Kevin Egan) has been granted planning permission on a site at Lackamore, Co. Laois and it is also stated that the lands farmed by Kevin Egan are also located at Lackamore. The Lackamore lands are located to the south of the appeal site and c.4km away by road.
- 7.2.4. The basis for the shed structure not being provided at this alternative location is stated to relate to the visual prominence and sensitivity of the site. A folio map showing the Lackamore lands has been submitted with the third party appeal and this indicates that there is frontage to two local roads. A review of these roads using Google View (images attached with this report) indicates that the local roads to the south of the Lackamore lands are very narrow and not of sufficient width to accommodate agricultural machinery. The site where Kevin Egan has been granted permission by Laois County Council for the construction of a two storey dwelling is at the far north west corner of the lands as indicated on the folio submitted by the first party and included at Appendix 8 of the first party appeal. The view of this site and adjacent lands indicates that it is indeed open and that clear views from the south are available by virtue of the fall in ground levels to the south. It is however also noted that there is an existing farmyard complex located on the northern side of the local road where the dwelling was granted. It is also noted that the ridge height of the permitted dwelling at Lackamore is 9.13 metres and the permitted dwelling is therefore is a significant scale. On the basis of the information available regarding the Lackamore site is not in my opinion clear that an alternative suitable site for the storage of agricultural equipment could not be provided at this location.

7.3. Impact on Residential Amenity

- 7.3.1. The information submitted with the application indicates that the shed will be used primarily for the storage of agricultural equipment and machinery connected with tillage forming as well as for domestic storage. The use for domestic related purposes is not in my opinion such that it should lead to a significant potential negative impact on residential amenity.
- 7.3.2. The use of the shed for purposes connected with agriculture does in my opinion have the potential to have significant impacts on residential amenity due to noise and lighting. As stated in the first party appeal, agriculture is not a standard commercial activity and cannot be expected to keep to standard work hours. It is therefore likely that there will be times when there would be significant disturbance to residential amenity outside of normal working hours.
- 7.3.3. The proposed development is located such that the full height section proposed to be used for agricultural purposes is c.27 metres from the observers dwelling at the closest point and c.29 metres from the adjoining dwelling to the east owned by the first party.
- 7.3.4. The proximity of the footprint of the shed structure as constructed is very close to the boundary with the adjoining third party property to the west (within c.750mm) and to the rear boundary of the site. I note the comments made by the first party with regard to the location of the site boundary and the contention that the boundary as constructed encroaches onto their property. This is however a legal matter between the parties to the appeal and, on the basis of the information presented and available on file, there is in my opinion no clear basis to question the location of the site boundary.

7.4. Design and Visual Impact

- 7.4.1. The scale of the outline of the shed as constructed is significant with a maximum overall height of c.6.7 metres above ground level and a floorplan of c.24 metres by 12 metres. The visual impact of the existing structure is therefore significant especially when viewed from the west on the local road approaching the site and also when viewed from the adjoining dwelling to the west. As part of the development, it is proposed that alterations to the existing frame would be

undertaken to reduce the overall height from c.6.7 metres to c. 5.7 metres and that the bay closest to the third party property to the west would be reduced in height by the creation of a lean to element.

- 7.4.2. The proposed alterations would, in my opinion have an overall positive impact in terms of reducing the visual impact of the shed structure and the visual and overbearing impact when viewed from the property to the west. Notwithstanding the proposed changes, I would however retain concerns regarding the bulk of the shed and its proximity to site boundaries, in particular to the third party dwelling to the west. In order to protect the visual and residential amenities of the observers property it is in my opinion necessary that the bay on the western side of the shed identified as 'Domestic Storage Section' on the submitted drawings would be omitted in its entirety from the development. It is also considered appropriate that the area closest to the observers dwelling would be landscaped with screen planting as part of a general landscaping plan for the site.

7.5. Traffic and Access Considerations

- 7.5.1. The first party contend that the existing access is adequate for agricultural purposes by virtue of the fact that it is a well established agricultural access and also that sight lines can be improved by the trimming of hedges on their lands to ensure that a 90 metre sight line can be achieved. The existing situation at the access is that there is adequate visibility to the west, however visibility to the east is obstructed by an electricity pole and by the hedgerow fronting the dwelling to the east that is in the ownership of the first party. The speed limit on the road is 80km/hr and the volume of traffic was observed to be low at the time of inspection.
- 7.5.2. I note the fact that the report of the Area Engineer recommends that further information be requested regarding the achievement of a 120 metres sight line at this location. Given the existing agricultural nature of the access and the low traffic volumes on the road it is my opinion that a 90 metres sight line is acceptable in this instance.

7.5.3. From an inspection of the site, it is considered that the achievement of a 90 metre sight distance to the east is achievable albeit that it may involve the undertaking of works additional to the trimming of the hedgerow on the adjoining dwelling as proposed by the first party. From an inspection on site and reference to the submitted Site Layout Plan it would appear that some setting back of the western side of the boundary of this dwelling may be required to achieve the necessary sight line to the east of the entrance, however any such works would be on lands that are within the control of the first party. It is also my opinion that the restriction on additional visibility to the east above 90 metres arises from the boundary of the property immediately to the east and the setting back of this boundary would result in a sight line greater than 90 metres being achieved.

7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

7.7. **Conclusion**

7.7.1. In conclusion, I note the scale of the frame of the shed as constructed on site and the proposed reduction in scale as part of the application submitted. The scale of the shed as proposed is such that it would in my opinion have a negative impact on the visual and residential amenity of the adjoining dwelling, particularly as a result of the proximity of the shed structure to the boundary. In order to be acceptable in visual terms, it is my opinion that the height of the shed needs to be reduced as proposed in the application and the bay closest to the observers dwelling needs to be omitted in its entirety. A landscaping plan that provides for the screening of the western boundary of the site where it adjoins the observer's property is required.

7.7.2. With regard to the nature of the proposed use, the impact on amenity and the justification for the location on the appeal site, on the basis of the information presented I am satisfied that the shed is for agricultural purposes. It is evident that the nature of an agricultural shed is such that some negative impacts on residential

amenity would arise by virtue of the likely operational hours. Were a grant of permission being considered it is in my opinion appropriate that the use of the shed would be restricted to the storage of machinery and equipment related to the agricultural activity undertaken by the son of the first party and specifically not for the storage of foodstuff or grain. Such a restriction on use is consistent with the stated purpose of the development. Subject to the alterations outlined above it is noted that the shed would be located approximately the same distance from the appellants dwelling as that of the observer.

- 7.7.3. I note that the first party owns additional lands at Lackamore which are farmed by the son of the first party. I also note that permission has been granted for a dwelling at this location and that therefore an agricultural shed could be constructed that would have the required surveillance and security available. The locations on this land holding with suitable road access are, however relatively scenic, albeit a location where the planning authority granted permission for a two storey dwelling of c. 9.1 metres in height. An alternative location for the proposed shed structure would therefore appear to be available in Lackamore.
- 7.7.4. On balance, however, subject to a reduction in the scale of the proposed shed, including it setting back from the western site boundary, the landscaping of the site and a restriction on the use of the shed solely for the storage of machinery and equipment, it is considered that the proposed development is acceptable and would not be such as to have unacceptable negative impacts on visual or residential amenity.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the rural location of the site and the pattern of development in the area, to the form and proposed use of the development and relationship with surrounding properties it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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, 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 proposed development shall be amended as follows:
 - (a) the bay of the shed on the western side of the floorplan identified as 'Domestic Storage Section' in the submitted Floor Plan shall be omitted entirely from the development and this area of the site reinstated with the removal of the steel frame. The shed shall therefore have a maximum width of 18.5 metres and be set back a minimum distance of 6.5 metres from the boundary with the adjoining property to the west.

(b) the overall height of the shed shall be reduced to a maximum of 5.682 metres above ground level as indicated on the Floor Plan and Sections drawing submitted with the application.

(c) use of the permitted shed shall be restricted to the storage of equipment and machinery directly connected with the agriculture. The structure shall not be used for the storage of grain, feed or other foodstuffs.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged to adequate soakpits on site. .

Reason: In order to ensure adequate disposal of surface water.

4. Details of the finishes of the agricultural shed shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than [1:500] showing –

(i) Existing trees and hedgerows specifying which are proposed for retention as features of the site landscaping,

(ii) The species, variety, number, size and locations of all proposed trees and shrubs,

(iii) Details of screen planting that shall be provided along the western side of the site,

(iv) A timescale for implementation.

All planting shall be adequately protected from damage until established. 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 the interest of residential and visual amenity.

6. Sightlines of 90 metres in each direction measured from a position 2.4 metres back from the road edge and 1.05 metres above ground level shall be provided at the existing entrance. Prior to the commencement of development details of the achievement of these sightlines illustrated on a Site Layout Plan (scale 1:500) shall be submitted for the written agreement of the Planning Authority.

Reason: In the interests of traffic safety.

7. Prior to the commencement details of all lighting to the shed and adjacent site, to include location, specification and cowling of all lighting shall be submitted for the written agreement of the Planning Authority.

Reason: In the interests of residential amenity.

Stephen Kay
Planning Inspector

9th April, 2019