



An
Bord
Pleanála

Inspector's Report ABP-303348-19

Development	Retention of fabrication workshop. Construction of extension of workshop, storage shed, office, and staff facilities and all necessary services and site works.
Location	Lisnamuck & Commons-Entire West, Clonmel, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	18600626
Applicant(s)	Patrick Hally
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	William Mitten
Date of Site Inspection	09 th March 2019
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.94 hectares, is located approximately 8km west of Clonmel. The site is located off the L3164. The site is occupied by an existing commercial operation (concrete fabrication). There are a number of existing structures on site including two sheds and a stone structure with concrete hardstanding area. Adjoining lands in the immediate vicinity are agricultural lands. The nearest dwellings are located to the north west (two) with the appellant's dwelling located to the east along the L3164.

2.0 Proposed Development

2.1. Permission is sought for retention of existing fabrication workshop. Permission is also sought for an extension to the fabrication workshop, a storage shed, staff facilities, alterations to existing entrance and foul water treatment system and percolation area. The workshop for retention has a floor area of 171sqm and is 7m high. It has a shallow pitched roof and an external finish of profiled metal cladding. It is proposed to extend the existing workshop with structure similar in scale, design and external finishes (173sqm). It is proposed to demolish an existing stone shed and construct a new shed and office with a total floor area of 132sqm. This structure has a ridge height of 4.4m and has external finishes of render and a pitched roof with profile metal cladding. Alterations to the road frontage include removal of hedgerow to the west of the entrance and erection of post and rail fence.

3.0 Planning Authority Decision

3.1. Decision

Grant of permission subject to 11 conditions. Of note are the following conditions...

Condition no. 1(c): Hours of operation.

Condition no. 8: Noise emission limits imposed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (06/07/18): Further information required including details of the pre 64 use of the site and history of activity on site, details regarding other elements not included in the development description, details of nature of activities proposed, a noise survey, details of operating hours and dust emissions.

Planning Report (07/11/18): New public notices required.

Planning Report (03/11/18): The proposal was considered to be acceptable in the context of Development Plan policy, visual amenity, adjoining amenities and traffic safety. A grant of permission was recommended subject to the conditions outlined above.

3.2.2. Other Technical Reports

Irish Water (02/06/18): No objection.

Environment Section (05/11/18): A condition regarding noise emission limits was recommended.

3.3. Third Party Observations

A submission was received from William Mitten, Carragaun, Derrygarth, Cahir, Co. Tipperary.

- The proposed septic tank is unacceptable for commercial development.
- The height of the new structures is too high and no screen planting is proposed.
- The zoning is incorrect for this development and possible archaeological impacts.
- The proposal is a traffic hazard being on a narrow road and bend.
- Dust, noise and odour from the development is also a concern.

A further submission was received from William Mitten, Carragaun, Derrygarth, Cahir, Co. Tipperary.

- The response to further information response was not adequate.
- The scale of development is inappropriate in a rural area.
- The road network is deficient to cater for a development of this type.
- The proposal includes development constructed without planning permission.
- The proposal would impact adversely on amenities of adjoining dwellings.

4.0 Planning History

No planning history.

5.0 Policy and Context

5.1. Development Plan

The relevant Development Plan is South Tipperary County Development Plan 2009 as varied.

5.6.2 Enterprise in the Open Countryside

Policy ED9: It is the policy of the Council to support and facilitate the provision and/or expansion of appropriate small scale rural enterprise in the open countryside within residential sites and in vacant or derelict buildings. Development proposals will be required to meet the following criteria:

- a) The development shall not have an adverse impact on the residential, environmental and rural amenity of the area;
- b) Any new structure shall be of a scale appropriate to the size of the site, and be sited and designed to ensure it does not detract from the rural setting and landscape

character of the area.

c) The development shall comply with the development management standards set out in Chapter 10.

Where the enterprise or activity develops to a scale that is inappropriate by virtue of activity or size in its rural context, the Council will seek to encourage its re-location to a more suitable location on zoned land within towns and villages.

5.2. Natural Heritage Designations

None in the vicinity.

5.3. EIA Screening

Having regard to nature of the development comprising to retention and extension of a fabrication workshop and associated site works, 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.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been submitted by William Mitten, Carraguan, Derrygarth, Cahir, Co. Tipperary.

- It is noted that in granting permission the Council have ignored the concerns raised by the appellant in his submission regarding the application.
- The decision has no regard to Development Plan policy in relation to zoning in a rural area and the impact of the scale and commercial nature of the proposal on existing dwellings and rural area.
- It is noted that if the proposal is considered favourably that provision should be made for high screen walls. It is noted that the operations are highly visible from the appellant dwelling and constitutes an invasion of privacy.

6.2. Applicant Response

Response by Ed Walsh Architects on behalf of the applicant Patrick Hally.

- It is noted that the Development Plan policy allows consideration of existing commercial uses in section 5.62 and Policy ED9.
- The information submitted included reports on noise and dust and it was concluded the proposal would have an acceptable impact at this location.
- In relation light spillage the internal lighting system will prevent all necessary light spillage.
- The development proposed is designed to meet the current demands of the enterprise and future modest expansion.
- The applicant notes that the business has operated since 2016 without any complaint from the tenant of the appellant's property.

6.3. Planning Authority Response

No response.

7.0 Assessment

- 7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

Principle of the proposed development/suitability of location

Visual/adjoining amenity

Traffic

Wastewater treatment

Appropriate Assessment

7.2 Principle of the proposed development/suitability of location:

7.2.1 Permission is sought for retention of an existing fabrication workshop (concrete products). Permission is also sought for an extension to the fabrication workshop, a storage shed, staff facilities, alterations to existing entrance and foul water treatment system and percolation area. The appellant questions the appropriateness of a commercial development at this rural location.

7.2.2 There is an existing fabrication business in operation on the site (concrete products). There is an existing shed used for storage in relation to the existing business (not subject to retention or part of the application), and existing shed subject to retention and an existing stone building, which is to be demolished to make way for a new structure. There is no planning history on the appeal site with the appellant noting that the existing operation is unauthorised development. During the course of the application the applicant was requested to give details of the previous activities on site including pre 1964 development. The information submitted indicated that the site was used for commercial storage for a building company between 1987 to 2015 with no details of any pre-1964 development.

7.2.3 The use subject to retention is commercial in nature and is located on lands that are rural in nature and therefore not zoned for commercial development. This does not however preclude the location of commercial development in such a rural location. Policy ED9 of the County Development Plan notes that “it is the policy of the Council to support and facilitate the provision and/or expansion of appropriate small scale rural enterprise in the open countryside within residential sites and in vacant or derelict buildings. Development proposals will be required to meet the following criteria:

- a) The development shall not have an adverse impact on the residential, environmental and rural amenity of the area;
- b) Any new structure shall be of a scale appropriate to the size of the site, and be sited and designed to ensure it does not detract from the rural setting and landscape character of the area.

c) The development shall comply with the development management standards set out in Chapter 10.

Where the enterprise or activity develops to a scale that is inappropriate by virtue of activity or size in its rural context, the Council will seek to encourage its re-location to a more suitable location on zoned land within towns and villages”.

7.2.4 I would consider that the principle of the proposed development is acceptable and that Development Plan policy does allow for small scale commercial development of this type in a rural area such as this. Such is however contingent on the proposal being satisfactory in the context of adjoining amenity, visual amenity/rural character and environmental consideration. These aspects of the proposal will be examined in the following section of the report.

7.3 Visual/adjoining amenity:

7.3.1 The proposal entails retention of an existing shed, permission to construct an extension to such and permission for a separate storage shed and staff facilities in lieu of an existing stone structure on site. There is an existing shed on site not subject to the application. The overall scale and design of the structures on site are not excessive in scale and they are not out of keeping with similar scale agricultural structures. The site is itself is not a prominent or elevated location and is not located within an area subject to any special amenity designation. I am satisfied that the visual impact of the development in the surrounding area is satisfactory and that it would not be highly visible in the intervening area apart from in the immediate vicinity. I am satisfied that the design and scale of development proposed would be acceptable in context of the visual amenities of the area and rural character.

7.3.2 The site is located in a rural area and the lands in the immediate vicinity are agricultural in nature. The nearest dwellings are located to the north west and the appellant's dwelling is located to the east. The dwellings are not immediately adjacent with a reasonable degree of separation between the appeal site and the

nearest dwellings. In response to further information an Environmental Noise and Dust Report was submitted. This report includes details of a noise survey and dust monitoring carried out. The monitoring location for noise coincided with the location of the nearest dwelling to the north west (110m to the north west). 4 monitoring points surrounding the site were used for dust

7.3.3 The results of dust monitoring indicate that dust levels are low and well below 350 mg/m²/day Bergerhoff Dust recommended emission limit value. In relation to noise the survey gives details of average noise levels between the 31/07/18 and 07/08/18. The noise results indicate that noise level generated by the existing operation are within the general limits applied to such developments by the EPA (55dBA daytime, 50dBA evening and 45dBA at night). I am satisfied based on the information submitted by the applicant that the proposal would be satisfactory in the context of noise impact and dust levels. The development provides for structures that mean the fabrication is located within such and therefore reduces noise and dust impact. I am satisfied that the overall scale of the development is modest and that the degree of separation from existing dwellings is sufficient to protect residential amenity. I would also consider that appropriate conditions regarding noise and dust emission limits could be attached in the event of a grant of permission, I would however consider that a noise condition is the only one I would recommend in this case.

7.4 Traffic

7.4.1 The existing operation is accessed off the L3164, which is a lower category county road. The site is located at a bend in the road. The existing entrance features stone walls on either side. There is a proposal to improve visibility in a north westerly direction by removing hedgerow and installing a new post and rail fence with the area outside such maintained as a lawn area. I would note that the public road the site is accessed off is not a heavily trafficked road. I would consider that the public road would have sufficient capacity for the proposed use and that such would have no significant or adverse impact in relation to traffic safety. The entrance is located on the outside of a bend and visibility in both directions appears to be sufficient based on the design speed of the public road. Visibility to the east is of a very good

standard while to the north west it is more curtailed due to a bend in the road. Visibility of 60-70m is available in the north westerly direction. The applicant is proposing to improve this to 95 by setting back the hedgerow boundary to the north west and has the consent of the landowner to do so. I would question the need for improvement in visibility to the north west as it does entail the removal of hedgerow and would impact on the rural character of the area without being essential. Having inspected the site and used the entrance as it is set up currently, I consider that there is sufficient visibility to the north west and that the alteration proposed should not be implemented. I am satisfied that the proposed development would be acceptable in the context of traffic safety and convenience.

7.5 Wastewater treatment

7.5.1 It is proposed to install a new proprietary waste water treatment system to the south of the site. The information submitted includes a Site Suitability Assessment Report. The site suitability test results include a trail hole test, which indicated no water in the test hole (3.10m depth) and the T test result by the standard method for deep subsoils/or water table indicate that the subsoils are suitable for the safe discharge and treatment of wastewater. The maximum number of employees is 10 people and the wastewater treatment system is designed based on such loading capacity and to comply with the requirements of the EPA Code of Practice Wastewater Treatment Manuals -Treatment Systems for Small Communities, Business, Leisure Centres and Hotels. Having regard to the aforementioned, I am satisfied that the proposal would be acceptable in the context of public health.

7.6 Appropriate Assessment

7.6.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the nature of the development proposed, its location in a rural area and Development Plan policy, it is considered that, subject to compliance with the conditions set out below, the proposed development for retention and new development proposed would not seriously injure the amenities of the area or the residential amenities of adjoining property, would not be prejudicial to public health and would be acceptable in the context 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 alterations to the existing hedgerow to the north west of the vehicular entrance shall not be implemented with the existing hedgerow remaining unchanged.

Reason: In the interests of visual amenity rural character.

3. Water supply and drainage arrangements, 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 -

(a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and

(b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of environmental protection and public health.

4. Any proposed lighting shall be erected by a suitably qualified lighting specialist and the lighting directed and cowled such as to reduce light scatter outside the boundaries of the site.

Reason: In the interests of residential amenity and traffic safety.

5. The hours of operation shall be between 07.00 hours and 19.00 hours Monday to Saturday. The development shall not operate on Sundays or public holidays.

Reason: In the interest of the residential amenities of property in the vicinity.

6. Surface water shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

7.

(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document "Wastewater Treatment Manual: Treatment Systems for Small Communities, Business, Leisure Centres and Hotels", Environmental Protection Agency (current edition). Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the first operation on of the wastewater treatment system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

8.

a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:

(i) An LAeqT value of 55 dB(A) during the period 08.00 to 19.00 hours from Monday to Saturday inclusive.

(ii) An LeqT value of 50 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics – Description and Measurement of Environmental Noise.

Reason: In order to protect the amenities of property in the vicinity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme

made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Colin McBride
Planning Inspector

27th March 2019