



An
Bord
Pleanála

inspector's Report ABP-303521-19

Development	to RETAIN six loose box stables
Location	Annagh, Miltown Malbay, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	18858
Applicant(s)	Melanie Evans
Type of Application	Retention Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Terry Coombes
Observer(s)	None
Date of Site Inspection	26/03/19
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of the L2104, a country road running north-west of the Annagh Cross Roads. There are a number of one-off dwellings along the road with the remainder of the lands being in agricultural use.
- 1.2. The subject site comprises a detached dwelling, garage / shed and horse stables with a sand ring further south of the stables.

2.0 Proposed Development

- 2.1. On the 25th October 2018 planning permission was sought to retain six loose box-stables 78sq.m., an ancillary storey 38sq.m. and sand ring within the curtilage of the applicant's home (0.46ha).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 18th of December 2018 the Planning Authority issued a notification of their intention to GRANT permission subject to 5 no. conditions. Condition no. 2 precludes commercial activity.

3.2. Planning Authority Reports

- 3.2.1. **Planning Report:** Applicants name matches the land registry, this is satisfactory. The Planning Authority is satisfied that the uses on site are not commercial and are ancillary to the adjoining dwelling. Proposed development will not generate traffic and will not have a negative impact on public health or visual amenities. Recommendation to grant permission.

3.3. Third Party Observations

- 3.3.1. One objection to the proposed development was submitted to the Planning Authority. The grounds raised were: unauthorised development, conflicting details on the nature of the proposed use, misleading information in the application form, the negative impact on residential amenity and pollution risk.

4.0 Planning History

- 4.1.1. **ABP-302271-18:** Planning permission was refused to the Applicants spouse, for the construction of a shed on a site across the road from the subject site, for the following reason:

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.

- 4.1.2. **PL03.123334:** Planning permission was refused to the former owner of the subject site for the retention of a hard-standing area, for the following reason:

On the basis of the submissions made in connection with the planning application and the appeal, it appears to the Board that the proposed development relates to a site the use of which is unauthorised for the carrying on of a transport/sand and gravel supply operation and that the proposed development would facilitate the consolidation and intensification of this unauthorised use. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of permission for the proposed development in such circumstances.

5.0 Policy and Context

5.1. Clare County Development Plan 2017-2023

- 5.1.1. Chapter two Core Strategy identifies this area as a rural area under strong urban influence and an area of special control.
- 5.1.2. Section **A1.11 of Appendix 1** of the development plan recognises that the rural countryside is a natural resource with agricultural activity being particularly important. In considering proposals for agricultural development (walls, fences, yards, stables,

sheds, slurry pits etc.) the Planning Authority will have regard to the Department of Agriculture document Guidelines and Recommendations on the Control of Pollution from Farmyard Wastes together with the following:

- Siting and design that is keeping with the surrounding area
- The use of muted coloured materials
- Grouping of buildings will be encouraged
- Adequate effluent storage facilities

The Planning Authority will require adequate provision for the collection, storage and disposal of effluent produced from agricultural developments. The European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014 set out the requirements for storage of farm effluents and the minimum holding periods for storage of farm wastes.

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.

5.3. **EIA Screening**

- 5.3.1. Having regard to nature of the development comprising the retention of an small scale domestic development in a rural area, it is considered that 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**

- 6.1.1. An agent for the Appellant has submitted an appeal against the decision of the Planning Authority to grant retention permission. The Board is requested to refuse permission. The grounds of the appeal can be summarised as follows:

Unauthorised Development:

- The application is subject of an enforcement notice (ref. UD13/020) from 2013 which relates to the provision of a portacabin on site and the subject stables.
- Brian Cahill was asked to remove the portacabin and stables, level the ground and pay the costs of the Planning Authority.

- As the stables are still in situ, the notice has been ignored.
- In November a further unauthorised building was erected adjacent to the stables. This is for commercial equestrian uses. This is referenced by the Planning Authority under reg. ref. 18/858 where the planner noted that new enforcement notices were issued which included reference to the storage structure. The portacabin was removed in 2018. Planning permission was refused by An Bord Pleanála (302271 refers) for a shed on the site across from the subject site.
- In May 2018, the appellant notified the Planning Authority that the timber posts around the riding arena were replaced with permanent concrete posts.
- It is submitted that the Board can have no confidence that conditions attached to a permission would be complied with.

Misleading and Conflicting Information

- It is submitted that the applicant's claim that the subject development is agricultural is misleading.
- Reg. ref 18/237, an application by the applicant's husband on an adjoining site refers to an existing local equestrian business. It is submitted that this is an explicit reference to the applicant's commercial enterprise.
- The subject development is not ancillary to the residential enjoyment of the dwelling.
- It is submitted that the Planning Authority were incorrect in accepting the applicant's submission that the activities carried out on site are domestic rather than commercial.
- The appellant has witnessed livery, riding lessons and horse training for multiple visitors. The development has caused an increase in traffic, noise and visual nuisance.
- The applicant's submission that part of the area has permission as a hard-standing area under 00/2140 is incorrect as An Bord Pleanála refused permission (PL03.123334). The Board's two reasons for refusal related to the unauthorised use of the site for sand / gravel operations and the proposed industrial use in an established residential cluster. It is submitted that these reasons should form the refusal for the subject application.

Negative impact on Residential Amenity

- The commercial activity will have an unduly negative effect on the appellants residential amenity by way of noise and disturbance.
- The sensitive rural location is unsuitable for a commercial operation.
- The site is on a narrow single-width roadway that cannot accommodate a commercial operation. The six stables could generate 12 no. traffic movements per hour.

Pollution Risk

- The applicant has not indicated how they propose to dispose of effluent arising from the development. There is an existing watercourse to the rear of the application site which has the potential to be polluted.

6.2. Applicant Response

6.2.1. The applicant has responded to the third-party appeal as follows:

- The dwelling and garage were built under reg. ref. 92/362. Permission was refused for a transport yard, shed and retention of an area of hard standing.
- The applicant received verbal consent from the appellant for the stables 15 no. years ago (2004). The stables were constructed as Class 6 Part 3 exempted development. In 2013, when enforcement proceedings started the stables had been in existence for more than 7 years.
- The sand ring referred to by the appellant is exempted development under Class 10 Part 3 of the regulations.
- The applicant has four horses and used to house their friends horse. The remaining stables are used for storing hay, logs and garden equipment.
- The shed across the road was for the applicant's spouse's business. Some of the spouse's business materials were stored in the stables temporarily. The Board refused permission for this application (ABP-302271-18).
- There never has and there never will be an equine business. The activity the appellant refers to is private lessons for friends and family. The reference to an existing equestrian business was a mistake by the agent.

- The portacabin on site was removed as requested by the Council.
- The environmental officer of Clare County Council has visited the property and has confirmed that there is no risk.
- The appellants third ground of objection refers to the previous resident and their business and has no relevance to the subject application.
- The development generates no traffic as it is used by the applicant and her daughter only.
- The appellant and the applicant live in open countryside, not a designated residential cluster. The subject stables will have no impact on the appellants residential amenity.

6.3. **Planning Authority Response**

- The Planning Authority have taken enforcement proceedings in relation to unauthorised development at this site.
- Condition no. 2 of the Planning Authority's decision restricts the use of the development to ancillary to the dwelling.
- Planning Authority is satisfied that the subject development will not have an impact on public health and has attached a condition requiring the management of effluent.
- Clare County Council request that the Board uphold the decision to grant permission.

7.0 **Assessment**

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the single issue raised is the principle of development.

7.2. Principle of Development

- 7.2.1. A key concern of the appellant is that the subject development to be retained is commercial enterprise, with the resulting impacts arising from traffic, visual amenity and residential amenity.
- 7.2.2. On the date of my site visit, two horses were housed in the stables to be retained. There was no evidence that the stables were a commercial enterprise. The surrounding area is rural in nature and the existence of horse stables and a sand ring is not unusual in such areas. In an agricultural area with the normal rural smells, sounds and activities, it is not considered that the keeping of two horses results in a negative impact on visual or residential amenity. The subject stables and adjoining sand ring are considered common rural activities, ones which must be expected in rural area.
- 7.2.3. The subject shed to be retained is in keeping with the dwelling and the stables and causes no impact on residential or visual amenity. I am satisfied that the subject stables, sand ring and shed to be retained are ancillary to the residential use of the dwelling on site.
- 7.2.4. In relation to the disposal of any effluent that may arise from the subject development, this can be addressed by way of condition.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature and scale of the proposed development in a rural area, no appropriate assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1.1. It is recommended that permission to retain be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1 Having regard to the zoning objective of the area, the layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development to be retained

would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission to retain is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- 1 The development shall be retained 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 All foul effluent and slurry generated by the development to be retained shall be conveyed through properly constructed channels to the proposed and existing storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road, in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2017, as amended.

Reason: In the interest of public health.

- 3 The stables, shed and sand ring to be retained shall not be used as a commercial enterprise and shall be used solely in connection with dwelling, except with a prior grant of planning permission.

Reason: To protect residential amenity.

Gillian Kane

Senior Planning Inspector

29 March 2019