



An  
Bord  
Pleanála

## Inspector's Report ABP-303717-19

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<b>Development</b>	The use of an existing building/store as a domestic store ancillary to the existing dwelling house.
<b>Location</b>	Strand Farm, Curraghbinny, Carrigaline, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	18/07053.
<b>Applicant(s)</b>	Blackrock Estates Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	1. Roger and Alison Flock and Others 2. Denis O' Sullivan
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	13 <sup>th</sup> June 2019
<b>Inspector</b>	Fiona Fair.

## 1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of 0.4 hectares is located at the end of a descending cul de sac to the south of Curaghbinny Wood. Curaghbinny occupies a promontory circa 8 kilometres to the east of Carrigaline and the area enjoys an attractive coastal and harbour setting overlooking the settlement of Crosshaven and the mouth of the Owenboy Estuary.
- 1.2. The appeal site is accessed via a narrow cul de sac private road serving a number of residential properties. The appeal site is circa 160m from the junction with the public road and fronts onto the foreshore enjoying panoramic views to the south to Crosshaven Village.
- 1.3. Lands to the west and northwest are open and agricultural whilst lands to the north and east are dotted with residential development of a variety of type, size and age. Two dwellings immediately adjacent to the site are a two storey to the north-east and three storey to the north. Both dwellings are on considerably higher ground levels.
- 1.4. There are a three existing structures on the appeal site. The building subject to the current appeal comprises a warehouse type structure of recent construction which has a mixed finish of cladding and dash. To the south of this building is a two storey dwelling which was vacant at the time of my site visit. To the south is a single storey flat roofed building. It has apparently been in use as an office building for some time. The area to the north of the buildings is largely paved and a parking area is located towards the north-eastern corner of the site.
- 1.5. Documentation submitted by the first party indicates that the applicant has secured a premises in Shanbally and is currently in the process of relocating the research uses from the existing house to the new premises.

## 2.0 Proposed Development

- 2.1. The proposal comprises:
  - The use of an existing building/store (granted a temporary permission under Council Ref. 15/5810 / An Bord Pleanála ref. PL04.246137 for ancillary storage use for the storage of samples and office materials) as a domestic store ancillary to the existing dwelling house.

- Gross floor area of the domestic store 134 sq. m
- Gross floor area of the residential dwelling 271 sq. m
- Gross floor area of the laboratory / offices 184 sq. m
- Total gross floor space of existing buildings 589 sq. m

The 134 sq. m ancillary store will be used solely for the parking of cars, the storing of trailers and to store a boat given its proximity to the waterfront.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Planning Permission granted subject to 3 number conditions. Conditions include:

C1. Standard

C2. The structure shall be used solely as that permitted herein as a domestic store incidental to the enjoyment of the dwelling house on site. It shall not be used for the carrying out of any trade or business or for human habitation.

C3. Notwithstanding the exempted development provisions of the Planning and Development Regulations (2001, as amended), no additional structures shall be erected within any dwelling curtilage save with the benefit of a further planning permission.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planners Report considers that while objectors highlight concerns that the commercial activity will not halt on site, that the shift to domestic use of the dwelling is a requirement of the planning permission on site and any noncompliance will be dealt with through the enforcement process.

It is considered that while large the shed on site in terms of materials etc is to a high standard and given the location the requirement for a large shed for use as a boat store is reasonable.

### 3.2.2. **Other Technical Reports:**

**Area Engineer:** No objection

### 3.3. **Prescribed Bodies**

None

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

Objections / submissions were received by the planning authority. Issues raised are similar to those raised in the two third-party appeals, which are summarised in detail below.

## 4.0 **Planning History**

**Reg. Ref. 15/5810 / PL.04.246137** Permission Granted (08/06/2016) for Retention of alterations and change of use of dwelling to office/ laboratory use, partial demolition of farm shed and construction of new store and permission to replace septic tank with treatment unit.

C2. This permission is for a period of three years only at the end of which time the dwellinghouse shall revert to residential use and the proposed building/store shall be removed.

Reason: To enable a more appropriate location for the business uses to be identified.

C3. The structures as detailed on the documentation submitted with the application shall be used solely as that permitted herein as a single business entity and no change of use/subdivision shall take place without the benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended.

Reason: To safeguard the amenities of the area.

The Boards rationale for the application of a temporary three year permission: 'It is considered that, having regard to the greenbelt zoning of the site that the intensification of use represented by the remainder of the proposal would seriously injure the residential and rural amenities of the area and of properties in the vicinity and that a three year permission is appropriate to enable a more suitable location for the uses proposed to be identified'.

**Reg. Ref. 13/05601 / PL.04.243412** Permission Refused for retention of extension to north elevation, alteration to elevations and 'velux' windows to roof at existing offices for use by Blackrock Estates Ltd.

The refusal reason was as follows.

'On the basis of the submissions made in connection with the planning application and the appeal and having regard to the planning history of the site, the Board is not satisfied that significant works carried out on the site are authorised by a grant of planning permission. Accordingly, the Board is precluded from considering a grant of a permission as the proposal would facilitate the consolidation and intensification of development which has not been authorised by a permission'.

#### **On the subject site to previous applicants**

**PL4/5/43426 (PA Ref.78/1600)** Permission granted by the board for retention of outhouses as offices (April 1979)

**PA Ref. 84/1109** Permission granted for an extension to the Strand Farmhouse.

**PA Ref. 04/8043** Permission refused to Leslie Auchincloss for change of use of existing dwelling house to offices and change of use of existing offices to dwelling house. The refusal reason cited unauthorised development.

**PA Ref. 05/508** Permission refused to Leslie Auchincloss for change of use of offices to dwelling house including refurbishment works of new front porch entrance, pitched slate roof with rooflights and first floor living space, alterations to window opes and replacement with new windows and doors, retention for existing dwelling to offices including all ancillary site works. The refusal reason cited flood risk.

**PL04.223964 (PA Ref.07/4617)** Permission granted by the PA but refused on appeal by the Board for demolition of house and outbuilding and construction of house over

basement. The refusal reasons cited unauthorised development, scale and visual impact, effluent treatment, and rural housing policy.

**PA Ref. 14/6028** Retention sought for partial demolition of farm shed/store and retention of construction of a building for the storage of samples and office materials. This application was withdrawn.

#### **Enforcement cases at the subject site**

**PA Ref. EF07/318** Case closed in relation to alleged unauthorised continued use of dwelling as offices and unauthorised ancillary site works following refusal of PA Ref. 05/0508.

**PA Ref. EF12/247** Current case [at time of planning officer's report] relating to unauthorised demolition of agricultural shed, unauthorised construction of warehouse, and unauthorised use of this building.

## **5.0 Policy Context**

### **5.1.1. Development Plan**

#### **6.1 CORK COUNTY COUNCIL DEVELOPMENT PLAN 2014**

##### **6.1.1 Strategic and settlement policies**

At a strategic level, the site is within the 'County Metropolitan Cork Strategic Planning Area', which includes such towns as Carrigaline, Middleton, Blarney, and Ballincollig.

The site is also located within a 'Prominent and Strategic Metropolitan Greenbelt Area', which covers a somewhat smaller area than the 'metropolitan' area above, and is only applied to areas that are not built-up. Section 4.3.5 of the plan describes this area as follows.

This rural area under strong urban influence forms part of the Cork Gateway and is within close commuting distance of Cork City and Environs. There is evidence of considerable pressure from the development of (urban generated) housing in the

open countryside and pressures on infrastructure such as the local road network and higher levels of environmental and landscape sensitivity.

**Section 4.5.8 is of particular relevance to the subject case:**

While the overall objective for Greenbelt lands is to reserve them generally for use as agriculture, open space and recreation (Objective RCI 53), it is important to recognise that there are a certain number of long-established commercial or institutional uses lying entirely within the Greenbelt. Examples of this would include garden centres, hotels, care institutions, and tourism enterprises such as Fota Island. It is not the intention of this plan to restrict their continued operation or (subject to maintaining the specific function and character of the Greenbelt in the area) to prevent appropriate proposals for expansion / intensification of the existing uses. This of course would only apply to authorised uses and also be subject to normal proper planning considerations as set out in Section 4.6.

These principles are reflected in Objective RCI 5-6: 'Long Established Uses' which is to: 'Recognise the requirements of long established commercial or institutional uses located entirely within the Greenbelt which may make proposals for expansion / intensification of existing uses. Such expansion proposals of an appropriate scale would only be considered in special circumstances, having regard to the overall function and open character of the Greenbelt and where development would be in accordance with normal proper planning and sustainable development considerations'.

Greenbelts are also applied to other areas around the county's towns. Most of the associated policies relate to rural housing.

#### 6.1.2 Landscape Designations

The R612 Crosshaven road, on the opposite side of the Owenboy River, is a designated Scenic Route.

#### 6.1.3 Car parking

Table 1a of Appendix D sets out Car Parking Requirements for New Development (Maximum per sq. m)

## 5.2. Natural Heritage Designations

The site is around 220m from the Cork Harbour Special Protection Area and it is 8km downstream from the Great Island Channel Special Area of Conservation.

## 5.3. Environmental Impact Assessment (EIA)

- 5.3.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, 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

The issues raised in the two third party appeals are collectively summarised as follows:

- Appellant (Denis O'Sullivan) resides to the immediate east of the application site, sharing a boundary and access way with the applicants.
- The established use of the site - Strand Farm was used as a yacht design drafting office which was a clean use with very minimal staff and traffic generation until it was taken over by its current occupiers
- The current use as a chemical laboratory, offices, warehouse / storage facility for pharmaceutical products and well exceeds the home-based office use permitted to its predecessors, Ron Holland Design
- Planning history and enforcement history attached to the site
- The latest application seeks to overturn ABP's direction for the storage building to be removed on the 7<sup>th</sup> June, following the expiry of the three-year temporary planning permission.
- No confidence that the applicant will use the structure on site for residential purposes.



- The storage building / warehouse bears no relationship to the structure that was in place on Strand Farm prior to its unauthorised demolition and replacement.
- Concern that continued use of business operations will, in time, lead to further nuisance and intensification of commercial activity in Strand Farm as it has to date.
- No faith or confidence in the planning enforcement process
- The applicants have a history of disregarding the planning process to the detriment of the residents of Curraghbinny
- The current temporary planning permission expires on the 7<sup>th</sup> June 2019 and it is asked that the Board uphold their previous decision on the property and direct that the storage building be removed from the site.
- There is a need to protect the residential amenities of the area and to end this matter once and for all.
- On-going enforcement issues are unfair to appellants.
- Traffic impact of the business unacceptable. Roadways are rural in nature.
- Appeals Accompanied with:
  - Aerial photos
  - Extract from PL04.223964
  - Photographs

## 6.2. Planning Authority Response

No response received

## 6.3. First Party Response

6.3.1. A response was submitted it is summarised as follows:

- The proposed development is for permission for the continued use of the existing storage shed for ancillary domestic storage / use.

- The subject structure originated pre-1964 and was originally used as an ancillary shed to Strand Farm House
- While the exterior of the building has been repaired and external cladding added, there was no change to the overall footprint.
- There is a prolonged planning history on the site dating back to the 1970's
- The applicant is in the process of relocating the business to Shanbally to a building which has planning permission for an office and laboratory use.
- Only core administration staff will remain in the permitted office building on site.
- Once the main business has finished relocating to the new premise, the former dwelling house on site will revert back to its residential use in line with An Bord Pleanála permission Reg. ref. 04.246137.
- It is proposed that the structure subject of this appeal will be used as ancillary storage for same.
- The shed is to be used for parking of cars, ancillary domestic storage and storage of a boat.
- Given the sites proximity to the waterfront and existing slip to the water, this is an entirely legitimate use of this building.
- The development has no impact on visual amenity of the area or designated scenic routes.
- The proposal will reduce traffic impact as it is reverting to a domestic store.
- The applicants are presently in full compliance with planning permission on the site.

## 7.0 Assessment

I consider the key issues in determining this appeal are as follows:

- **Principle of the development and Compliance with extant Planning Permissions**
- **Impact Upon Residential and Visual Amenity**
- **Traffic Impact**
- **Appropriate Assessment**

### 7.1. Principle of the development and Compliance with extant Planning Permissions.

- 7.1.1. The appeal site is located within Cork Metropolitan Greenbelt as designated within the Cork County Development Plan 2014 – 2020. From information on file it is noted that the current operations on the overall site primarily comprise the administrative (including storage of files) and marketing activities of the Marigot Group (Celtic Sea Minerals). The extraction and processing of seaweed and other natural marine based raw materials for use in human and animal food and health products.
- 7.1.2. It is established that to date the premises subject to this application has been used as a warehouse / storage facility for sample pharmaceutical products and for ancillary office storage use. The applicants have until recently been operating the food / nutrition research and administration facility on site utilising the three number buildings thereon. The dwelling house (now vacant) subject building store and a single storey office structure. There is a protracted planning history on this site dating back to the early 1970s.
- 7.1.3. A temporary three year permission was granted, on the 08/06/2016, by the Board (under Reg. Ref. PL04.246137, see section 4.0 of this report above) on the grounds that 'having regard to the greenbelt zoning of the site that the intensification of use....it would seriously injure the residential and rural amenities of the area and of properties in the vicinity and that a three year permission is appropriate to enable a

more suitable location for the uses to be identified.’ Accordingly, Condition number 2 stated:

‘This permission is for a period of three years only at the end of which time the dwellinghouse shall revert to residential use and the proposed building / store shall be removed.’

- 7.1.4. Essentially the dwellinghouse is to revert to residential use and the subject building / store is to be removed on the expiration of the three – year permission which is the 8<sup>th</sup> June 2019. The current application effectively seeks permission for the change of use of the existing building, in temporary use, for commercial storage, to use as a domestic store ancillary to the existing dwellinghouse on site.
- 7.1.5. Third party concern is expressed that the applicants will continue to use the subject store for commercial use, given the planning history / enforcement history on the site.
- 7.1.6. The first party submits that they have secured a large premises in Shanbally and the business is currently in the process of relocating the research uses from the existing house to this new premises. Once the main business has finished relocating to the new premises, the former dwelling house on site will revert back to its residential use in line with the An Bord Pleanala permission granted under Ref. PL04.246137. The 134 sq. m shed will be used solely as an ancillary store to the dwelling house, for use of parking of cars, to store a boat (given the sites proximity to the waterfront and existing slip to the water) and for ancillary storage. The applicant has no issue with the future domestic use of the buildings being controlled by condition.
- 7.1.7. The planning authority report on file sets out that the p.a. are statute barred from taking enforcement action in relation to the long established commercial use on site. It is considered that the subject proposal is acceptable subject to a use restriction condition confining the use of the structure in accordance with the details submitted on the 10/01/19 and the 21/11/18 precluding the structure from being used in connection with any trade, business or profession. It was also considered appropriate to condition that no further ancillary structures be constructed on the site without the prior benefit of planning permission given the previous planning / enforcement history on site.

- 7.1.8. It is also noteworthy that the present warehouse / garage structure on the site, subject to this permission, was pre-dated by a barn style shed used as an ancillary shed to Strand Farm House. The applicant submits that alterations and repair made to the structure was required due to the poor state of the building and that the floor area remains unchanged.
- 7.1.9. Regard being had to the foregoing, the protracted planning history and from my site visit, the dwelling house on site appeared vacant not in active use, in line with Condition 2 of Reg. Ref. PL04.246137. I tend to agree with the decision of the planning authority. While large the shed on site in terms of materials and finish is to a high standard and given its location the requirement for a large shed for use as boat storage is reasonable. The proposed development, for change of use to ancillary domestic storage, car storage and boat storage, would be acceptable subject to conditions which are clear, concise, reasonable and enforceable. This would facilitate future enforcement action by the planning authority if deemed appropriate.

## **7.2. Impact Upon Residential and Visual Amenity**

- 7.2.1. It has been shown that the current commercial business on site is relocating to a business unit in Shanbally with only core administration staff remaining in the permitted office building. The subject structure is to be used for domestic purposes only (storage, parking of cars and boat storage). Given the nature of the use proposed it is considered that the proposed development would not seriously injure the amenities of the area. I agree that the ceasing of commercial use and use of the subject building, solely, for domestic purposes ancillary to the residential dwelling on the site is acceptable and entirely reasonable.
- 7.2.2. I highlight that the applicant has no issue with the use being controlled by way of condition. This is entirely acceptable, reasonable and appropriate and there is no reason why it would not be fully enforceable. The change of use to domestic store as proposed would not impact upon residential amenity of the area.
- 7.2.3. As referred to above, the existing storage structure, albeit now altered radically originated pre-1964 in the form of a barrel shaped agricultural haybarn. It is contended that the footprint remains unchanged.

- 7.2.4. Having carried out a site visit and from photographs on file it is evident that the structure sits comfortably within its setting. The existing mature landscaping and external finish of the building has a minimal visual impact on the site and surrounding area.
- 7.2.5. I agree with the first party that the structure has no impact on the scenic route S58, R612 Crosshaven Road, on the opposite side of the Owenboy River. The subject site lies approx. 0.5 km north of the royal Cork Yacht Club, Marina and adjoining scenic route. The subject storage building is marginally visible in the distance from the scenic route as the existing office building on site lies immediately south of same. The land rises to the north beyond the site forming a backdrop and there is a significant number of mature trees and landscaping present on the appeal site and in the surrounding area. The existing budding does not hinder or obstruct any views and prospects along the scenic route.

### **7.3. Traffic Impact**

- 7.3.1. In my opinion, the use proposed is a less intensive use than that which existed on the site to date. There is ample parking available on site. I do not envisage that traffic impact from the proposed use would be such that a refusal of permission on traffic grounds would be warranted.

### **7.4. Appropriate Assessment**

- 7.4.1. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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 that planning permission should be Granted for the development subject to conditions.

## 9.0 Reasons and Considerations

- 9.1.1. Having regard to the character and established pattern of development in the vicinity, the planning history of the site and nature of the proposed use, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic impact. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained 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 garage structure shall be used solely for purposes incidental to the enjoyment of the dwelling house (domestic store, car storage and for boat storage purposes only) and for no other reason and shall not be used for the carrying out of any trade, business or commercial activity.

**Reason:** In the interests of amenity and the proper planning and development of the area.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations (2001, as amended), no additional structures shall be erected within the site save with the benefit of a further planning permission.

4. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** To ensure a proper standard of development.

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Fiona Fair  
Planning Inspector

24.06. 2019