



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304565-19

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<b>Development</b>	Retention of existing domestic shed
<b>Location</b>	Farrannamoreen, Glasson, Athlone, Co Westmeath
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	197059
<b>Applicant</b>	Laura Murtagh
<b>Type of Application</b>	Permission to retain
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Laura Murtagh
<b>Observer</b>	Paul Lyons
<b>Date of Site Inspection</b>	19 <sup>th</sup> September 2019.
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1.1. The site is located at Farrannamoreen, Glasson, Athlone, Co Westmeath, along the N55. This section of the N55, which rises steeply from the village, experiences heavy volumes of fast moving traffic. It is a narrow road with very narrow verges. The single lane carriageway, in each direction is divided by a solid white line. It is subject to a 100kph speed limit.
- 1.1.2. The site is a short distance (c250m) from a large business, Wheel Chair Cars Ireland, operated by the applicant's husband on the N55, within the speed limit for Glasson.
- 1.1.3. The subject site is long and narrow, extending some 165 m from the roadside, where a small derelict cottage is located, together with stone sheds in a ruinous state. Adjoining to the north is a similar cottage plot occupied by a habitable cottage together with small outhouses. Both cottages have gable elevations to the road and face south.
- 1.1.4. There is a recently constructed concrete block with a gap left as an opening along the roadside of the site.
- 1.1.5. To the rear of the cottage is a recently constructed shed along the northern boundary finished in profiled metal with two large roller shutter doors facing south and a pedestrian doorway. There are no windows. The shed is surrounded by a hard surfaced area. It is fitted with security cameras and security lights. To the rear of the shed there are two steel shipping containers.
- 1.1.6. On the date of inspection there were two vehicles on the site in front of the shed, the driver of one, who works for Wheel Chair Cars Ireland, was leaving the shed.
- 1.1.7. The site is given as 0.379ha.

## 2.0 Proposed Development

- 2.1.1. The proposed development is the retention of an existing domestic shed. The shed is shown as 4.8m high, rectangular in shape with dimensions of 12.15m x 8.15m and a given floor area of 94 sq m.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The planning authority decided, (2<sup>nd</sup> May 2019), to refuse permission for two reasons:

1 Having regard to the scale, height and materials, it is considered that the retention of the structure would be inappropriate and inconsistent with a typical domestic garage and with the Westmeath County Development Plan 2014-2020. In the absence of residential occupancy of the existing dwelling on site, it is considered unwarranted to authorise the retention of ancillary domestic use. The structure is excessive in terms of scale and form and results in a dominant development which negatively impacts upon the visual amenity and adjacent residential amenity and as such is considered contrary to the proper planning and sustainable development of the area.

2 The development is located on the N55, the development will result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads (DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities January 2012, section 2.5), would endanger public safety by reason of traffic hazard, set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

3.1.2. The decision was in accordance with the planning recommendation.

### 3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Report recommending refusal, includes:

- There is an existing derelict dwelling and unauthorized steel portal frame shed located on site.
- The development description is not considered to be an accurate description and the development relates to a large steel portal frame shed comprising an area of 94 sq m, width 8m, length 12m and height 4.8m. The commercial

scale is excessive and inappropriate having regard to the abandoned nature of the site, its prominence from the N55 and the location of two articulated containers adjacent to the unit at the time of site visit.

- The shed does not reflect domestic proportions/size. It is considered that the retention would be inappropriate and inconsistent with a typical domestic garage.

### 3.2.2. Other Technical Reports

- Area Engineer, which includes: a newly constructed wall has been noted upon inspection adjacent to the public road which has not been identified on the application. The line of this wall does not comply with the Design Management Standards as set out in the county development plan and endangers public safety by reason of traffic hazard, and refusal is recommended.
- Westmeath National Roads Office which includes: this site is within the study area for the N55 Athlone to Ballymahon Scheme. They have evaluated this application and based on their observations have no objection in relation to this scheme.

### 3.3. Prescribed Bodies

- TII which includes:

They refer to Spatial Planning and National Roads Guidelines for Planning Authorities, DoECLG (2012) and policy to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kph apply. The proposal, if approved, would result in the intensification of an existing direct access to a national road contrary to official policy.

The proposed development is located within an area currently under consideration as a route option for a national road improvement scheme and the application is premature pending the determination of the route and it therefore contrary to section 2.9 of the Spatial Planning and National Roads Guidelines.

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

3.4.1. Third party observations on the file have been read and noted.

## 4.0 **Planning History**

An enforcement notice is referred to in the grounds of appeal.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. Westmeath County Development Plan 2014-2020 is the operative plan, relevant provisions include:

Adherence to Spatial Planning & National Roads Guidelines for Planning Authorities 2012.

P-NR1 To restrict access to national roads, in order to protect the substantial investment in the national road network, to improve carrying capacity and safety and to prevent the premature obsolescence of the network.

P-NR2 To support and provide for improvements to the national road network, including reserving corridors for proposed routes, free of development, so as not to compromise future road schemes.

P-NR5 To prevent the creation of additional access points from new developments or the generation of increased traffic from existing accesses to national roads, to which speed limits greater than 60kph apply.

O-NR3 To reinforce linkages between the Linked Gateway and the northern development area/border region /Northern Ireland, by strengthening the N55 route.

A schedule of proposed National Road improvement and upgrade projects are listed in Table 8.1. The council will preserve a corridor to enable design options for National Road improvement and upgrade projects to be advanced.

Table 8.1 Schedule of National Road Improvements includes: N55 Realignment Athlone to the Longford County Boundary.

Development Management - Entrances - A new entrance should combine the requirement for continuity in the type of natural boundary with carefully considered linking hedges to gates. The new entrance shall be located within a 12m x 2.4m parking strip which shall adjoin the metalled edge of the public road. Hedgerow disturbance should be limited to that required to provide the parking strip and required sightlines only.

The entrance gate shall be located within the parking strip and recessed 4m behind the roadside boundary. The entrance gate shall be joined to the fence line which shall be splayed at angles of 45 degrees.

## **5.2. Spatial Planning and National Roads Guidelines for Planning Authorities, DoECLG (2012)**

The guidelines are intended to deliver a plan-led approach to National Roads including to investment in the capacity of national roads and protecting such investment through appropriate policies and local planning and collaboration between planning authorities; which includes:

Section 2.5 - Required Development Plan Policy on Access to National Roads. With regard to access to national roads, all development plans and any relevant local area plans must implement the policy approaches outlined below. Lands adjoining National Roads to which speed limits greater than 60 kmh apply: the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.

Section 2.9 Protection of Alignments for Future National Road Projects, includes: In the case of future roads development involving plans for new roads or upgrades of existing roads, overall policies and priorities are determined by Government, e.g. in the NDP and other relevant official policies, and are delivered by the NRA in conjunction with local authorities.

In line with international practice, the NRA adopts a 20 year design horizon as the basis for capacity design requirements in order to optimise the economic return on the investment,

A development or local area plan should identify any land required for future national road projects including objectives that the required lands be retained free from development; and measures are put in place so that any adjacent development of sensitive uses, such as housing, schools and nursing homes, are compatible with the construction and long-term operation of the road.

### **5.3. Natural Heritage Designations**

- 5.3.1. The nearest Natura sites are Lough Ree SAC (site Code 000440) which is 0.9 km, straight line distance, from the subject site and Lough Ree SPA (site Code 004064) which is 1.25 km, straight line distance, from the subject site.

### **5.4. EIA Screening**

- 5.4.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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 first party appeal by Ms Murtagh includes:

- It questions the validity of the objections to the planning authority and states that they showed no evidence of commercial activity at the premises.
- It refers to two of the objectors as being associated with a competitor business.
- It states that Mr Lyons lives in Birr Co Offaly, and rents out the adjoining property. He does not work or live in the area.

- It questions their interest in planning issues and that in contrast to their objection to her application they have not objected to a nearby application for a large dairy unit, neighbouring Mr Lyons on the other side.
- It states that residents of the area have no objection.
- Re the TII submission, regarding route options, she has requested a copy of the route options report. She doesn't consider that a domestic shed will increase traffic onto the road. On the contrary it will minimise traffic. If this property can cater for her family's needs, it will mean that they can be within walking distance of their business.
- There are two large developments under planning application close to her property on the national road. She questions why TII have not made a submission in relation to these, one being the large dairy unit. If TII does not consider that these will create intensification of an existing access, then her domestic shed should not. She is concerned that they may have made the submission incorrectly based on a commercial operation.
- The shed is smaller than many in the area. The materials are traditional. Similar types of development can be seen across the road and to either side of the property.
- Re occupancy, the electricity connection was awaited until recently and the house is currently under renovations to make it habitable.
- The shed is in line with the Westmeath Co Co core strategy integration of land use and transportation policy and coincides with their Lifetime Homes strategy. It is in line with the national framework plan and the governments energy policy and climate change goals. It will help to rejuvenate a vacant derelict home.
- They need this shed to house a camper van and vintage car. Any concerns re commercial use can be addressed by conditions.
- The domestic shed will not increase intensification of an existing direct access onto the road. The camper van and vintage car may only be taken out once a year.



- It questions the process. An enforcement notice was served without a warning notice. They didn't acknowledge her response. They accepted libellous submissions without foundation. They may have breached data protection by sending her address which should not have been disclosed.
- Attached to the response are Electricity Ireland bills.

## 6.2. Planning Authority Response

- No response.

## 6.3. Observations

Emma Pillion, Consulting Planner, has submitted an observation on behalf of Paul Lyons, which includes:

- Paul Lyons bought the cottage and land to the north with a view to downsizing and retirement and to allow him and his wife to carry out some subsistence farming.
- He is not against the principle of the appellant living on the appeal site and enjoying the countryside life. The dwelling is derelict and beyond economic repair and the appellant has no intention of living there. Mr Lyons is concerned that the intention is to continue to infill the site and store cars, in the same manner that he did in Glasson Village.
- Having a shed of this nature on the site, against the boundary, of the scale, mass and bulk, is incongruous with the traditional cottage setting. Regarding the siting, photographs of the situation before and since the erection of the shed, are provided.
- The land falls away to the east, with no backdrop to absorb development. The site was infilled to raise the level, the boundary wall with the N55 was demolished and the shed was placed on the highest point of the site and on the boundary closest to the only neighbouring dwelling. It affects the enjoyment of his cottage and its setting. It is incongruous, overly dominant and has an overbearing impact on the adjoining dwelling.

- The shed makes no attempt in terms of scale, mass or bulk to integrate, in contrast to the substantial farm complex located at a hollow which does; or the domestic shed already in existence on the appeal site which is modest, below the hedge line and constructed in materials which are sympathetic to those used when both cottages were built, and assimilates well.
- The shed which is stated to be for domestic use, is 94 sq m. The average domestic shed is 25 sq m. There are already two containers placed on the site which are not for domestic use.
- The scale, mass and bulk along with the poor quality of the design and materials would be inconsistent with and adversely affect the existing rural character and seriously detract from the setting and character of the adjoining dwelling.
- The impact on the adjoining property is referred to and photographs are provided. The shed has an overbearing and entirely avoidable impact on the residential amenity of the adjoining property.
- If planning permission had been applied for in advance of development, it may have resulted in a better outcome. The adjoining cottage has suffered loss of value.
- The observer has concerns regarding commercial use of the site; two containers have been placed there since the shed was erected.
- The house is derelict and has not been occupied for approx. 20 years. During that time there was no use and no traffic.
- The sightlines are poor, there is no roadside verge and the 100kph speed limit applies. Even walking along the side of the road is extremely dangerous.
- The observer agrees with the refusal reason.
- The observer contests references to a vindictive process and states his right to object.
- A letter accompanying the grounds is a copy of the letter from Mr Lyons to the planning authority and includes that the shed is being used by the husband of

the applicant in connection with his car business, Wheel Chair Cars Ireland, and states his concerns in this regard.

## **7.0 Assessment**

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, impact on national road, refusal reasons, residential and visual amenity and the following assessment is dealt with under those headings.

### **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

### **7.3. Impact on National Road**

- 7.3.1. The second refusal reason refers to Impact on the National Road. The site is on the N55, which is a busy unimproved national secondary route where, it is stated, the development will result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads (DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities January 2012, section 2.5), would endanger public safety by reason of traffic hazard, set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.
- 7.3.2. TII submitted an observation to the planning authority recommending refusal of permission for two reasons: policy in relation to increasing the use of an access on a national road and that the site is located within an area currently under consideration as a route option for a national road improvement scheme where development would be premature pending the determination of the route.
- 7.3.3. The first party states that the development will lead to a decrease in use of the access rather than an increase because, if they are able to have their needs met on this site, they can move to be within walking distance of their business.

- 7.3.4. The third party observer states that the house has not been lived in for upwards of 20 years and is not habitable.
- 7.3.5. The house is currently in a derelict state and despite the Electricity Ireland bills, submitted with the grounds of appeal, is most unlikely to have an electricity connection because it is not water tight or secure. In contrast to the subject shed which has an electricity connection, for security lights and security cameras, and is both water tight and secure, the former dwelling has a large hole in the rear wall where a door most likely was once located.
- 7.3.6. I am in agreement with the planning authority's assessment that the subject development is not a domestic shed, but is used in connection with the associated Wheel Chair Cars Ireland business, located a short distance away, and that the retention of the shed would give rise to additional turning movements at a deficient access to a substandard national secondary road where a 100kph speed limit applies such that the proposal would constitute a traffic hazard, and this is a reason for refusal.
- 7.3.7. I note that the provision of a new route for the N55, which would which take N55 traffic out of the village of Glasson, has for many years been an objective of successive development plans; and this objective is reflected in the current development plan in Table 8.1, referred to earlier. I accept the TII submission that the application is premature pending the determination of the route, and this is a reason for refusal.

#### **7.4. Residential and Visual Amenity**

- 7.4.1. The third party observer, whose house adjoins this site, with the front of the house facing towards the subject site, makes the point that the shed has an overbearing and entirely avoidable impact on the residential amenity of that property.
- 7.4.2. He considers that having a shed of this scale, mass and bulk on the site, against the boundary, is incongruous with the traditional cottage setting and he provides photographs of the situation before and since the erection of the shed.
- 7.4.3. The shed is clearly out of scale with the existing buildings and the siting and design suggests that little consideration was given to the impact on the adjoining property. The raising of the ground level to provide approximately road level, rather than

sloping away from the road, has increased the impact of the building. However siting the building away from the boundary of the adjoining property would have provided limited mitigated due to the shape of the holding which is very narrow .

- 7.4.4. Although the shed does not materially overshadow the adjoining property, and although the aspect / view available to the adjoining property can not be preserved for the enjoyment of the residents it is my opinion that the proposed development is unnecessarily overbearing in this rural context.

## **8.0 Recommendation**

- 8.1.1. In accordance with the foregoing I recommend that permission to retain should be refused, for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1 The site is located on the N55, where the development proposed for retention, which is not associated with a habitable dwelling, would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads (DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities January 2012, section 2.5) and contrary to the objectives of the Westmeath County Development Plan 2014-2020, would endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

2 The proposed development is located within an area currently under consideration as a route option for a national road improvement scheme for the N55; the proposed development is premature pending the determination of the route and would therefore be contrary to the Spatial Planning and National Roads Guidelines and to the Westmeath County Development Plan 2014-2020, and contrary to the proper planning and sustainable development of the area.

3 Having regard to the siting, scale and bulk of the shed, which has a discordant and overbearing impact on the existing cottage style dwellings on the subject site

and the adjoining site, its retention would impact negatively on the visual amenities of the area and the residential amenities of the adjoining property and thereby be contrary to the proper planning and sustainable development of the area.

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Planning Inspector

23<sup>rd</sup> September 2019

Appendices

Appendix 1 Photographs

Appendix 2 Westmeath County Development Plan 2014-2020, extracts.

Appendix 3 Spatial Planning and National Roads Guidelines for Planning Authorities, DoECLG (2012), extracts.