



An
Bord
Pleanála

Inspector's Report ABP 304857-19

Development	Demolition of existing outbuildings to construct a new shed, widen existing entrance and associated site works.
Location	Lotteragh, Bruree, Co.Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	18/1231
Applicant	Carmel Ryan
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	1 st Party v. Condition
Appellant	Carmel Ryan
Observer(s)	None
Date of Site Inspection	16/09/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site, which has a stated area of 0.20 hectares, is to the south of the R518 Bruree to Ballingarry Road, c. 500 metres to the west of Main Street Bruree.

The site is roughly square in shape on which there is a single storey dwelling with outbuildings and containers to the north-west of same with open storage evident.

2.0 Proposed Development

The application was lodged with the planning authority on the 17/12/18 with further plans and details received 16/04/19 and 16/05/19 following requests for further information and clarification of further information.

The proposal entails:

- Demolition of two sheds/outbuildings with a stated floor area of 120 sq.m.
- Construct a 180 sq.m. shed along the rear boundary. It is to have a ridge height of 5.9 metres with concrete walls and selected cladding to the roof and sides.
- Widen the site entrance.

The purpose of the shed is to provide for secure storage of equipment and materials associated with the farm building construction business.

A Refurbishment/Demolition Asbestos Survey was submitted by way of further information.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 10 conditions.

Condition 2: Financial contribution of €7,200 in accordance with the terms of the Development Contribution Scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planning report dated 13/02/19 (countersigned) recommends further information on the shed to be demolished, need for the proposed shed, sightlines at site entrance, a refurbishment demolition and asbestos survey and details of existing septic tank and percolation on the site. The 2nd report dated 07/05/19 following further information recommends clarification of further information on sightlines at entrance and confirmation that there shall be no building or hardstanding over the proposed percolation area granted permission under 18/183. A 3rd report following clarification of further information has no objection to the proposal. A grant of permission subject to conditions recommended. A development contribution calculated at rate for warehouse applicable.

3.2.2. Other Technical Reports

Environmental Services in a report dated 29/01/19 recommends further information seeking demolition and asbestos survey and site specific waste management plan. A report following further information considers the Refurbishment/Demolition Asbestos Survey to be satisfactory.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

18/153 – permission granted for renovation and extension of dwelling on site and upgrading of septic tank.

5.0 Policy Context

5.1. Development Plan

The Limerick County Development Plan 2010 (as extended) refers.

Objective ED O21 – Expansion of existing industrial or business enterprises in the countryside.

It is the objective of the Council to normally permit development proposals for the expansion of existing or industrial or business enterprises in the countryside where:

- (a) The resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area; and
- (b) The proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in this plan.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The 1st party appeal is against condition 2 requiring a financial contribution of €7,200 in accordance with the terms of the Development Contribution Scheme. The submission is accompanied by supporting detail.

- The use of the shed is not for warehouse purposes and there will be no commercial gain from it. It is required to store and provide an area for routine maintenance of machinery used in their business to comply with health and safety.
- 50% of their business is the erection of agricultural farm buildings in the locality. They classify their business as being in the agricultural sector.

- Other agricultural contractors who have erected machinery storage sheds have not been charged contributions. Examples given.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

7.0 **Assessment**

The current appeal is made under Section 48(10)(b) of the Planning and Development Act, 2000, as amended. Consequently, the question to be addressed is whether the terms of the development contribution scheme have been properly applied by the planning authority in its imposition of condition No. 2 only. The Limerick City and County Council Development Contribution Scheme 2017-2021 pertains.

The proposal entails the demolition of two existing outbuildings on the site. The sheds would appear to have been/continue to be used for purposes ancillary to their construction business with the yard used for storage. There does not appear to be any planning history on the site for the use of the sheds for such purposes.

The purpose of the shed is to provide for secure storage and an area for routine maintenance of machinery associated with the construction business which is primarily engaged in the erection of steel farm buildings. I also note that when required the company installs steel emergency stairs and steel handrails on behalf of the County Council. The name of the company is Tom Riordan Farm Buildings Ltd. Whilst I note that 50% of its business is involved in constructing steel farm buildings, this, in itself, does not render the activity as agricultural in the normal understanding of the word. The shed is not intended for purposes ancillary to agricultural activities on the site or on associated lands and is intended, in effect, for purposes ancillary to the above described commercial activity. I consider that the cases given in support of the appeal are not directly applicable in that in each instance the machinery sheds

permitted were to be used for agricultural purposes and were not to be used for commercial purposes. Conditions to this effect were attached.

I would accept that the building does not provide the function of a warehouse as defined but would more appropriately be described as being for storage purposes ancillary to the main commercial activity. I submit that the building would come within the scope of Class 11 in the table titled *Other Categories of Development* in the current development contribution scheme. A levy of €40 per square metre is applicable.

The scheme does allow for a reduction where the application is for replacement. Section 12 states that replacement applications where the contributions have not been paid previously will be subject to contributions at the appropriate rate. The applicant's agent is required to provide evidence of proof of payment at application stage in order to expedite assessment and avail of this provision. As noted above there is no evidence that the use of the sheds on site for storage purposes ancillary to the commercial enterprise was subject of a planning application or that a financial contribution was paid for same.

Thus, on the basis of the absence of evidence that a financial contribution has been paid previously, I consider that there are no grounds for a reduction in the applicable rate and submit that the 180 sq.m. shed should be subject to the relevant rate of €40 per sq.m. This equates to €7,200 as specified by the planning authority.

8.0 Recommendation

Having regard to the foregoing I recommend that the planning authority be directed to ATTACH condition 2 for the following reasons and considerations.

9.0 Reasons and Considerations

It is considered that the planning authority has properly applied the terms of the Limerick City and County Council Development Contribution Scheme 2017-2021. The storage shed as proposed is not for agricultural purposes. The application of the contribution rate of €40 per square metre of development not previously mentioned in the Scheme as set out Appendix A - 'Other Classes of Development' is considered appropriate, in the absence of evidence that a financial contribution has previously been paid for the use of the sheds to be demolished on site for such storage purposes.

Pauline Fitzpatrick
Senior Planning Inspector

September, 2019