



An
Bord
Pleanála

Inspector's Report

ABP-305181-19

Development	Retain polytunnel and all associated ground works
Location	BUNNYCONNELLAN WEST (CHAFFHILL) , OATLANDS HOUSE , GROVE ROAD, Co Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	1951
Applicant(s)	Jonathon Banks
Type of Application	Permission to retain
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Martin and Rosaleen O'Boyle
Observer(s)	None
Date of Site Inspection	23 rd October 2019
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site is a mature residential farm holding of 2.80hecatres in a rural area south of Bunnyconnellan - a small village settlement east of Ballina and about 5 km south of the Sligo border.
- 1.2. The site has an undulating and patchwork terrain marked by paddocks/enclosures with mature trees, stone walls, fencing hedgerows and fencing. There is a large and what appears to be, 19th c. house and various outbuildings near the road entrance.
- 1.3. The northern boundary is a local high point and is marked by a stone wall, hedges/trees and fencing and adjoins two houses which back onto the site. There is also a parcel of fallow land adjacent to the site and houses and these lands are all served by a short cul-de sac road. This road is at a lower level.
- 1.4. Close to the northern boundary there is a 3.7m white polytunnel of 126 sq.m. on slightly sunken ground. It is in a largely enclosed area defined by old stone walls and a recently planted belt of trees. The polytunnel is of semi-transparent white plastic supported by a steel frame with a timber framed entrance. It is visible at close distance.

2.0 Proposed Development

- 2.1. It is proposed to retain the polytunnel and associated site works.
- 2.2. A Flood Risk Assessment Report was submitted as further information and states that there is no historic record of flooding of the site. It is concluded that the risk of fluvial, tidal/coastal, pluvial and ground water flooding of the site is low. There is no evidence of flooding in or around the site development area of environs. The proposed development will not have any adverse impact on flood plain conveyance and storage and will not increase the risk of flooding of the surrounding area. It is considered that the proposed development should be classed as a less vulnerable development . Accordingly, as the site lies within the lowest risk classification of Flood Zone C, a Justification Test is not required.
- 2.3. It is clarified in further information that the only machinery in the polytunnel is a Mitre Saw for building the raised grow bed. On completion, no machinery or tools will be stored there, as it is for growing produce.

2.4. Surface water details are provided in a modified site layout submitted as further information.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to grant permission subject to five conditions.
- Condition 2 requires the completion of drainage works within specific time-frame.
 - Condition 3 relates to landscaping.
 - Condition 4 relates to site maintenance.
 - Condition 5 seeks to prohibits commercial use and storage of unrelated items.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports: Having regard to the low-lying nature of part of the site, the planning authority sought further information in respect of flood risk. Further Information was also sought in respect of nature of use, landscaping and surface water. This was addressed to the satisfaction of the planning authority and the proposed development was considered to be in accordance with the proper planning and sustainable development of the area.
- 3.2.2. No appropriate assessment issues as significant impacts on Natura sites can be ruled out due to the nature of the development and the ecology of the nearest SAC and lack of connectivity.

3.2.3. Other Technical Reports

None

3.3. Prescribed Bodies

No submissions

3.4. Third Party Observations

One letter of objection was received from the appellant party. These concerns as raised in the grounds of appeal are noted in the planning authority report.

4.0 Planning History

None

5.0 Policy Context

5.1. National Planning Framework

- 5.1.1. The Irish countryside is recognised as a place that will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time avoiding ribbon and over-spill development from urban areas.
- 5.1.2. Agriculture is recognised as an activity that must adapt to the challenges posed by modernisation, restructuring, market development and the increasing importance of environmental issues and protecting environmental qualities.

5.2. Development Plan

- 5.2.1. The site is in a rural area outside any designated development area.
- 5.2.2. Agriculture : Objective AG-01: It is an objective of the Council to support the sustainable development of agriculture, with emphasis on local food supply and agriculture diversification (e.g. agri-business and tourism enterprises) where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity.

5.3. Natural Heritage Designations

- 5.3.1. The River Moy SAC 002298 is located about 3km as the crow flies north west of the site. There is a tributary river bordering the southern part of the landholding that feeds into the River Moy over a much longer distance. The Ox Mountain Bog SAC 02006 is about 3.7km to the east and the Lough He Bog SAC 00633 is about 3.2km to the south east.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Martin and Rosaleen O'Boyle of Barber Hill House Bunnyconnellan object to the retention of the polytunnel within a distance of 40m of their property on the following grounds:

- Unauthorised development due to the proximity of the polytunnel within a distance of 100m of a dwelling. This is the separation distance set down by the planning regulations. This is important when the countryside is shared with rural dwellers and particularly those on small sites. People building in the countryside are entitled to protection. Farmers are protected provided they operate within the guidance provided. The polytunnel is obviously sited to be at a maximum distance from the applicant's house.
- Hardships associated with development. There are concerns about the use of fertiliser, manures sprays and waste products and potential for vermin. Unsightly storage of bales of hay and silage covers, and material thrown around are objectionable and reflect no regard for the environment or amenities of neighbours.
- Appellant rights have been affected by unauthorised development and retention. Poor drawings have been lodged.
- The development is in close proximity and has made their site worthless and diminishes value of their house.
- The applicant's family trade under a limited company Oatlands Farm Ltd. with the principle activity being growing of vegetables and fruit yet this commercial activity was not shared with the council.
- The polytunnel should be sited close to the other buildings and existing house where it could be serviced and accessed in a less intrusive manner. E.g. shared access.

6.2. Applicant Response

6.2.1. Unauthorised development

- Believed that the polytunnel was exempted as a Rural Class 9 structure.
- The appellant never made known his issues until completion. When the applicant was aware, he tried to discuss concerns.
- Application for retention followed consultation with planning authority. Native trees have been planted to obscure views of the polytunnel.

6.2.2. Site selection

- The polytunnel is sited within a 200-year-old walled garden – one of the walls was knocked down by the appellant at the time of construction of his property. Had this not occurred a 6-foot-high wall would still be there. This can be confirmed by family members.
- The siting was chosen as this was an old orchard with level ground with good access to sunlight.
- The stone walls restrict views. Another location would require significant earthworks.

6.2.3. Amenity and environmental concerns

- This is a country area and the applicant has no issue with pests.
- It is an organic aquaponic system of growing vegetable – it is closed system of growing in circulating water – no fertilisers or substances mentioned by the appellant can be used in this system. It is an emerging technology in ecologically sustainable farming solution indicating a respect for the environment contrary to the allegations.
- The bales of hay were part of a permaculture heating system which involves heating water by the composting process and is environmentally friendly.
- Notwithstanding the rural context, the environmental benefits and sustainable farming practices, the applicant has removed the hay bales and woodchips in the interest of visual amenity for the neighbours.

- Value: It is pointed out that the appellants site of 0.66 acres has been for sale for over 2 years. It is suggested that the sale may be compromised by the site size by reference to the Development Plan requirements for houses in rural areas. Notwithstanding the restriction for housing development, the lower level of the site serves to obscure views of the polytunnel.
- Additional trees have been planted along the site boundary to assist in masking it further.

6.2.4. Rights

- The applicant cannot fully judge on this aspect although points out that all requirements of the council were met.

6.2.5. Commercial

- It is submitted that at this stage the applicant is not trading or growing produce on a commercial basis. The farming is at innovation stage only using a small scale aquaponic system for research into the viability of this type of farming in Ireland. They are working closely with the Local Enterprise Board with a view to obtaining Leader funding. The site will never be large enough for commercial aquaponics business which would in reality require a substantial area of flat land yet to be sourced. The site is not suited for such commercial development. The applicant is also exploring other options for crop-based farming as well as other environmentally friendly farming solutions.

6.3. Planning Authority Response

- No further comment

7.0 EIA Screening

- 7.1.1. It is arguable that the proposed development may fall into Class (1)(c) – water management projects for agriculture. However the threshold in this class is 1,000ha which exceeds the area of this application by a considerable magnitude. This application should not I consider be subject to mandatory EIA. Furthermore, having

regard to the extremely modest scale of the proposed development and the provisions of Schedule 7 to the Planning and Development Regulations 2001, as amended, I conclude that the proposed development should not be subject to a sub-threshold EIA.

8.0 **Assessment**

8.1. **Issues**

8.1.1. This appeal relates to a proposal to retain a polytunnel of 126 sq.m. with a maximum height of 3.7m in a 2.8ha landholding in a rural area and in a location close to the boundary with two rural dwellings. The residents of one of these neighbouring dwellings have appealed primarily on the basis of the impacts on their amenities and value of their property and land. In the course of consideration by the planning authority there were issues in relation to the potential for flood risk and surface water drainage and these matters were addressed to the satisfaction of the planning authority and have not been raised by the appellant. In view of the siting of the polytunnel at the northern end of the site and on high ground and the nature of the development together with the conclusion of the flood risk assessment report prepared by the applicant, I do not consider this to be a material issue in the appeal. Accordingly I consider the issues to centre on:

- Principle
- Impact on Amenities
- Appropriate Assessment

8.2. **Principle**

8.2.1. The site is located in a rural area outside any designated development area and on a holding of a couple hectares where there has been a tradition of horticultural activity as evidenced by the walled garden remains. It is not in any designated amenity area. The principle of a structure on such a holding for horticultural purposes is acceptable. Furthermore the particular nature of the activity which seeks to develop an environmentally friendly way of vegetable growing in the countryside, in my view, is, in the context of both the national planning framework and the development plan in

respect of agricultural development, the countryside and spatial strategy generally, supported in planning policy.

- 8.2.2. The case is made that the development, within 100m of a dwelling, breaches standards. This is not the case. The breaching of the distance of 100m only means that the subject development cannot be considered as exempted development. This does not preclude an application for, or granting, of permission – it simply brings the development within the development management process of the planning authority. I accept however that the existence of the structure should not give a favourable bias to consent and that it must be assessed on its merits by reference to the proper planning and sustainable development of the area.

8.3. **Impact on amenity.**

- 8.3.1. The primary objection relates to the siting of the structure close to the boundary and impact on both visual amenities and residential amenity by reason of nuisances associated with use and activities. The appellant feels particularly aggrieved that the location is closer to another dwelling other than that of the applicant.
- 8.3.2. In the first instance the applicant points out that the structure is for the purpose of a rural type of activity in a rural area and the polytunnel has been sited within a former walled garden where site conditions continue to support such use. The remaining walls offer shelter and light and the level terrain minimises earthworks in other parts of the holding which is characterised by undulating terrain and many trees. This seems a very reasonable basis for site selection.
- 8.4. With respect to visual impact, while I note the visibility of the 3.7m high structure, I do not consider it to be entirely unreasonable intrusion in a rural landscape. The views are only over a short distance and are extremely limited, but I accept it will be visible from a neighbouring dwelling and adjacent land. The limited views are however obscured by the surrounding walls, the digging into the site, the undulating terrain and combination of mature and recent planting. The white colour is also amenable to blending with pale sky as is evident in the site inspection photographs (no.1). Finally, the applicant intends to further augment the landscaping in accordance with details submitted as further information. On balance, I concur with

the planning authority and do not consider it reasonable to refuse permission for such a structure of this scale in a rural area on grounds of visual intrusion.

- 8.4.1. With respect to the potential for nuisances, the applicant has clarified that chemical fertilisers are not a feature of the growing methods and accordingly, odorous and offensive substances will not be an issue. The matter of vermin is dismissed as an issue due to the absence of a problem other than that naturally occurring in the countryside. The applicant has relocated the hay which I note was part of a composting and heat system and by doing this would reduce the potential for malodorous emissions from the site. It could however be argued that the enclosed system is potentially a lesser source of odour than the continued use of the walled garden as an orchard where manure could be liberally applied in an open setting. In this case, it seems the applicant has made efforts to further mitigate potential for nuisances.
- 8.4.2. On balance I consider the retention of a polytunnel of the scale and nature proposed in an established walled garden with its microclimatic and topographical conditions is a reasonable and appropriate use of the applicant's land and the retention of such would not give rise to a serious injury of residential amenity. Furthermore, for these reasons I do not consider that a significant loss in property value can be reasonably attributed to the subject development.

8.5. Other matters

- 8.5.1. The appellant refers to procedural matters and encroachment of his rights. I do not consider there is sufficient basis on these grounds to restrict permission. The correct procedures have been substantially adhered to in seeking permission for retention. The applicant has the burden of risk of a refusal of permission and retrospective works which I do not consider to be warranted in this case.
- 8.5.2. With respect to the commercial restriction, the applicant explains in detail the nature of the use as a research project into crop production reduced emissions and the limitations of the land for commercial intensive usage. I consider condition 5 to be somewhat superfluous.

8.6. Appropriate Assessment

- 8.6.1. The subject site is not located within any designated Natura 2000 site. Having regard to the material submitted with the application and, in particular to the absence of risk of flooding of the development area and the absence of connectivity with a Natura site together with scale of the development, I am satisfied that no Appropriate Assessment issues arise. 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.

9.0 Recommendation

- 9.1. In view of the foregoing I recommend that the decision of the planning authority be upheld and that permission is granted based on the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the horticultural character of the proposed development, its siting in a former walled garden and its modest scale and setting in a rural area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not be visually obtrusive within the area, would not have a seriously injurious impact on residential amenity, would not conflict with the provisions of the Mayo County Development Plan 20014-2020 and would be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by further information lodged on 1st July 2019, 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 landscaping scheme lodged with the planning authority on 1st July 2019 shall be completed within 2 months of the date of this permission and shall be maintained.

Reason: In the interest of visual amenity

3. The environs of the polytunnel shall be maintained in an orderly and clean manner.

Reason: In the of visual amenity.

4. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To prevent pollution.

Suzanne Kehely
Senior Planning Inspector

20th December 2019