



An
Bord
Pleanála

Inspector's Report

ABP-305250-19

Development	1) Install a single-storey prefabricated container 2) Retain two no. single-storey prefabricated container units
Location	Easkey Community Council Property, Curraghnagap Td., Easkey, Co. Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	19171
Applicant(s)	Easkey Community Council.
Type of Application	Permission and permission to retain
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Carmel Gordon and others
Observer(s)	None
Date of Site Inspection	23 rd October 2019
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site of 0.633 ha is located centrally within the village of Easkey, in northwest Sligo. The site is occupied by a Community Centre run by Easkey Community Council Limited and includes a two storey premises and a large open area accessed from a vehicular entrance on the western side of the Main street. At the northern side of the site, close to the boundary, there are four polytunnels, two container sheds in a fenced off enclosure and public recycling banks. To the west there is a shower/toilet block by an entrance to a caravan park west of the site.
- 1.2. The application relates to the container sheds and the adjacent area.

2.0 Proposed Development

- 2.1. Install a single storey prefabricated container and retain two single pre-fabricated container units. They are mounted on blocks and screened by picket fencing which incorporates planters.
 - Container 1 is 4.5m x 2.3m and
 - Container 2 is 6.1m x 2.5m
 - Container 3 is 2.87m x 8.2.3m
 - Maximum height of 2.4m
- 2.2. Plans were modified in further information lodged on 9th July 2019. In further information it is clarified that:
 - The container is to be used for herb processing which involves picking, bagging and weighing for sale. The sink is for staff hand washing. No chemicals are used in the processing.
 - Foul and surface water connection is clarified as is toilet usage.
 - Waste management is explained.
 - There are no septic tanks on site but there is a manhole – access to which will not be restricted at reasonable times.
- 2.3. It is further explained that the installation of the new the container is urgently required for efficient operation of a small enterprise and to facilitate the process of herbs for distribution so as to operate an environmentally friendly and sustainable

enterprise. Equipment required to be stored in the container includes a dehydrator, heaters, laptop printer and label maker, filing cabinet and packaging for herbs.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority issued a decision to grant permission subject to 4 conditions in relation to drainage, waste management and waste water.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports: The planning report notes the list of objections and that many of the issues raised relate to ongoing enforcement issues however it is pointed that while there is an active file the site is substantially compliant.
- 3.2.2. The key issues are impact on streetscape and as the existing and proposed containers are well set back into the site this is not considered to have significant impact. The proposed screening is considered to provide an acceptable solution for this publicly accessible area.
- 3.2.3. The waste material within the fenced area is noted, while the site is otherwise tidy and well-maintained from visual inspection.
- 3.2.4. Further information was required by the Environmental Section and the Enforcement section in respect of surface water drainage.
- A sink is noted in one container, yet no details of foul sewer connection are indicated.
 - The proposed containers appear to conflict with either a water mains or drainage pipe.
 - There are no details pertaining to organic waste and managing of chemicals or fertilisers in this proposed commercial facility.
 - There are no details of septic tanks in the vicinity of the development.
- 3.2.5. Loss of car parking is not considered to be an issue.
- 3.2.6. The issues are addressed in further information to the satisfaction of the planning authority. This is based on consultations with the relevant departments within the

local authority and therefore it is considered that there are no reasonable grounds to doubt the veracity of the further information lodged.

3.2.7. Other Technical Reports

Environmental scientist: The site is well maintained generally however the storage of miscellaneous waste is queried. The further information in respect of drainage and waste management was reviewed and there is no objection in principle to the proposed development subject to conditions in relation to waste, drainage and storage of chemicals.

3.3. Prescribed Bodies

No submissions

3.4. Third Party Observations

3.4.1. A large number of issues are raised by third parties which relate to the inappropriateness of the development with particular reference to the extensive planning history and non-compliance. There are concerns about:

- The unsightly nature,
- No sanitary facilities in the containers for employees
- Use of chemical toilet
- It should be children's playground or tennis court
- An on-site septic tank for a dwelling
- Proximity of polytunnels to houses
- A Gas tank in bus space
- A pay to exist barrier
- Lack of clarity regarding surface water drainage
- 5 storage sheds do not have planning permission
- Inadequate car parking – loss of 14 spaces and intensification of use.

3.4.2. Following submission of further information, further concerns are raised about the veracity of the response.

4.0 Planning History

4.1. There is extensive planning history set out the report of the planning authority. The most relevant area set out below.

4.2. An Bord Pleanala Ref: 301235 refers to a decision to omit condition 2 in respect of permission for construction of a single storey community enterprise building (5 x 12m) for storage display and sale of artisan produce. Condition 2 required

- The enterprise unit to be relocated by a minimum of 3m to the south-west.
Reason: To retain the existing emergency access to a fuel tank on a private property, in the interest of public health and safety.

The Boards decision was based on the reason and consideration that

- Having regard to the Sligo County Development Plan 2017-2023, the nature and scale of the proposed development and the pattern of development in the area, it is considered that the proposed relocation of the building on site for health and safety reasons is not required and is not in the interests of the proper planning and sustainable development of the area. The development as proposed is considered acceptable.

This was not constructed at time of inspection.

4.3. PA ref: 10/234 refers to permission for construction of a 354 sq.m. extension to the community centre and outdoor play area. An extension of duration of permission in 2016 was extended to 18th April 2021.

4.4. PA ref: 08/420 refers to permission to retain a container on site of 32.85 sq.m. plans show 6.16 x 2.53 this was subject to a condition to remove after 1 year unless prior permission granted.

4.5. PA ref: 08/473 refers to permission to retain a container 12 sq.m. for 1 year unless prior permission granted.

5.0 Policy Context

5.1. Sligo County Development Plan 2017-2023

- 5.1.1. Section 6.2 refers to the recognition of community participation in community facilities and policy P-C-3 states that it is policy to optimise existing and proposed physical resources and infrastructure by supporting multifunctional building use and provision such as the accommodation of small-scale community enterprise units within existing and proposed community facilities. Vol 2 provided development control guidance for small scale enterprise and refers to the need of compatibility with the surrounding area subject appropriate scale, design and servicing (Objective 1.7).
- 5.1.2. Easkey is identified as a Village Sustaining the Rural Community. Section 3.2 – Settlement hierarchy.

5.2. Easkey Mini Plan, Sligo County Development Plan 2017-2023

- 5.2.1. The site is zoned Community Facilities and is within an area identified on the maps as being influenced by the record of monuments and places.
- Built Heritage and Streetscape (Section 22.2) This section seeks to ensure that new development within the village centre reflects and enhances the existing streetscape character in accordance the policies set out in Chapter 12 (Urban design) in addition to the requirements Development in historic streetscapes as set out in Section 13.2.4.

5.3. Natural Heritage Designations

- 5.3.1. The site is not located within or adjacent to a Natura 2000 site. The nearest Natura sites are Killala Bay/Moy Estuary SPA (approx. 11km southwest of the appeal site) and Aughris Head SPA (approx. 11km east of the appeal site).

5.4. **EIA Screening**

5.5. Having regard to the existing development on site, the nature and scale of the proposed development and the location of the site, 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**

- Haphazard development next to neighbouring properties. Area around containers used for dumping.
- Fenced grass area is proposed where previously shown as car park
- Principle and need
 - Publicly funded Use – not supported and concern about lack of consultation, lack of agreement
 - The polytunnels have not been used
 - There are vacant units on main st
 - Container use unsuitable for the stated use
- Surface water Drainage absence of percolation areas
- There is an over flow chamber on site. There is a problem with surface water discharging to the foul sewer rather than an unconstructed percolation area.
- Appropriate waste management – e.g. caravan park using bottle banks
- Waste from touring camper vans
- Unauthorised bins
- Substandard development regarding accessibility parking and storage of gas
- Public bins status questioned as is validity of permission based on inaccuracy drawings
- Car parking not marked.
- 11 planning application with non-compliance history re drainage site layout, landscaping damage to heritage wall, drainage, no playground
- Blocking rights of way

6.2. Applicant Response

- The enterprise unit permitted under 17/481 was conditioned by the Board following a first party appeal was brought to tender stage but when the contractor sought to commence, local objections led to the abandonment. This was intended to facilitate the herb packing business.
- The proposed container of 25sqm. is in response to the local resistance to the enterprise unit as permitted. While the previously permitted unit is preferable , the container will provide the required environment for a modest business in its infancy stage.
- Regarding non-compliance with previous permission, the Enforcement Section is quoted in respect of its opinion that the community council is substantially in compliance on review of the planning permissions.
- It is disputed that the overall development including 4 polytunnels, a community centre , ancillary storage and a manicured caravan park can be described as haphazard, dangerous and reckless.
- The reference to public disquiet regarding the nature of the enterprise and evolution with public consent is not a matter for the Board
- The percolation area was not constructed because an extension was permitted in that area PL10/234
- The present arrangement to deal with surface water is described for the caravan park (outside the site outlined in red) . Individual pitches drain to rain water sumps. Rain water off building roofs is drained to a culvert that discharge to Easkey River while the hardstanding areas drain to a percolation area laid under the access road and car park. There is another one in the front of the polytunnels.
- Sewage over flow: an event in August 2019 was traced to stones in a manhole which were since removed.
- The surface water attenuation capacity on site is adequate to manage surface water run-off having regard to nature of the ground and the low level of development on site, the amount of hardcore, the surrounding services, and the permeability of the surface dressing.
- It is further explained that Sligo County Council allowed Easkey Community Council to connect surface water from the community centre complex into a historical culvert that ran under the public road in the village. This was done circa

2006 and at the same time when the council were resurfacing the road.

Percolations areas were also installed to deal with surcharge rainfall.

- Percolation was addressed in the further information
- Surface water is not wastewater
- The Heritage centre is in substantial compliance with 08/744
- The leasing details for the Church of Ireland to the Community Council is no no relevant to the appeal.
- Polytunnels are exempted development
- The afterschool care centre is not relevant to this.
- The planning status of the containers is being addressed in this application.
- It is acknowledged that the areas to the back of containers was used for temporary storage associated with building work, but this is no longer the case.
- It is explained that the polytunnels have been un-used due to the need for the subject development to facilitate the herb post picking processing stages.
- IT is intended to be an organic operation.
- Composting size and extent will be decided as the business develops
- It is difficult to micro manage breaches of composting deposits in a semi-public space and is in any event not governed by planning legislation - it is a matter of housekeeping.
- The status of landscaping is not relevant although the natural landscaping carried out to date looks well.
- There is no septic tank on site and a manhole provides access to a sewer line from a domestic dwelling. This located near the entrance. It is not an overflow chamber and merely provides access to the sewer line.
- The building status of the community centre is clarified. It has certificate of practical completion in 2007 and Fire Safety Certificates.
- There is adequate car parking and building accessibility. The fuel storage complies with relevant legislations
- The public recycling bins are a matter for the local authority
- The surface water channel does not drain to the sewer line.
- The pay to exit barrier does not require planning permission as confirmed by the planning authority.
- A mobile home on site is to be moved onto a pitch in the caravan park.

- The caravan park is constructed on Church of Ireland lands which are leased to the Community Council
- As the grey water and domestic effluent generated on site is connected to a public sewer there was no need to install and proprietary effluent treatment plant.
- The needs for CCTV surveys is noted
- Plastic bottles blocking water outlet is litter issue.
- The funding stream and planning history is directly relevant to the current application.
- There are no rights of way on the title document for the site. In any event the status of rights of way is not relevant to this planning application.
- The status of roof and leaks is not relevant
- The heritage was reprinted by the community council in accordance with Heritage Guidelines.
- It is concluded that the development relates to a modest herb growing enterprise which is a positive project with many environmental and community benefits and should not be a source of conflict in an urban area. There is no requirement for a large space separation between polytunnels and houses. A container adjacent to the polytunnel is considered essential and soft landscaping will screen the container. Further painting can also so improve the visual aspect. An alternative layout may in future be considered subject to use.
- In terms of safety it is concluded that the co-location of the caravan park and community centre space works well and that controlled access deals with safety. Signage for all users will also help. The overall development is a positive development for Easkey and the surrounding area.

6.3. Planning Authority Response

- No further comment

6.4. Observations

- None

7.0 Assessment

7.1. Issues

7.1.1. The appeal is against the provision of 3 containers to the north of a community facility site - two of which are being retained in their parallel layout at a nearest distance of 1m from the boundary, the 3rd is proposed to be perpendicular and all will be screened by picket fencing as exists for the existing containers. The key issues centre on

- Principle of development
- Impact on visual amenity
- Drainage
- Other matters
- Appropriate Assessment

7.2. Principle

7.2.1. The site is occupied by a community enterprise scheme in an area that is zoned for such facilities. The proposed development serves to enhance the facilities for the operation of a herb growing enterprise associated with the polytunnels in the area. Having regard to the development plan policy supporting such industry, the principal of developing the community grounds to facilitate a community enterprise is acceptable.

7.2.2. The principle is undermined by the appellants on the basis of both planning history and absence of public support.

7.2.3. With respect to compliance, the appellant raises a number of breaches of permission for development on the subject site and questions the validity of recent permission on the basis of inaccurate survey drawings. The planning authority appears to have given this matter detailed consideration having consulted a number of departments such as the environment and enforcement sections. It is concluded that the permissions have been substantially complied with. It is also noted that there is an extant permission and some matters remain outstanding. The enforcement matters in relation to the subject containers is being addressed in this case.

- 7.2.4. Notwithstanding any incidence of breaches of planning permission, the issues raised in this regard are substantially matters that can be addressed through the enforcement division. The granting of permission does not override the obligations of either the developer or the planning authority. Furthermore I do not consider that given the small scale of the subject development that a blanket restriction on all development is warranted and planning breaches in the site at large are not in this case a relevant factor in permitting other minor development in principle on the site.
- 7.2.5. The appellants also query the legitimacy of the development having regard to the process by which the enterprise business operates and is funded. It is pointed out that there is much objection to the whole enterprise scheme and unresolved differences in respect of the use of these community lands owned and leased out by the Church of Ireland. Some submissions refer to the need for a playground or tennis court. The fact is however, there is a legitimate and established community use that is supported by planning policy and is in principle in accordance with the development plan objectives. The fact that a particular use has not got full support is not a planning consideration.
- 7.2.6. The need for the containers is queried when there are vacant premises on the site and on the Main Street. The applicant makes the point that the container needs to be adjacent to polytunnels in which the produce is to be grown.
- 7.2.7. In terms of planning history I consider the most relevant aspect is that which relates specifically to the container, I note from the planning history that the two existing containers appear to date from before 2008 when temporary permission was granted for each of the containers. The applicant has since constructed a picket fence to screen the long side of the containers and ancillary compound area. In the previous cases, the planning authority considered the retention of such to be generally consistent with the development plan and acceptable on as it was development in a built-up area and serving as an ancillary use to the community centre. Since that time the back lands of the site have been used for small scale horticultural activity and a herb business has been developed. The containers now continue to serve as an ancillary use. The new container is needed to process the herbs which basically involves weighing and bagging. There are no intensive washing facilities other than hand washing and it is a fairly small-scale operation.

- 7.2.8. The planning authority previously had regard to the back-land nature and ancillary purpose and in principle and no objection .
- 7.2.9. Having regard to the planning policy and planning history and pattern of development I consider the principle of the use to be acceptable. However, in view of the nature of the structure and submissions, I consider the key issues relate to visual amenity and orderly development.

7.3. **Visual**

- 7.3.1. I concur with the planning authority in its assessment that the existing and proposed containers are sufficiently set back so as not to detract from the streetscape . previously, containers were not considered appropriate beyond one year as a permanent solution for storage. While I concur that a permanent structure would be the preferable option, that option, on foot of permission was obstructed by third parties on commencement of works which had to be abandoned. However the applicant remains in urgent need of facilities to advance the polytunnel enterprise.
- 7.3.2. A certain proportionality has to be applied to the nature of the organic horticultural enterprise which is labour intensive and modest in scale. The applicant has addressed visual impact by substantially enclosing the backland area of the development site with picket fencing and planted flower boxes. The views of the container from the entrance, the community centre premises and car park at a distance are not objectionable.
- 7.3.3. However I note that when examined in close proximity, the containers are old and storage is a bit untidy, but this is well screened from an otherwise tidy site. The additional fencing will obscure the older containers. I concur with the previous Assessment that long term continued use of containers is not ideal and that on-going maintenance is needed. I do accept that the neighbouring premises could potentially have unsightly views. In these circumstances, I consider a restriction to 6 years will facilitate a review of the premises and impact on amenities.

7.4. **Drainage**

- 7.4.1. One of the key issues relates to a potential connection of a surface water run-off to the foul sewer with a consequent overloading and over spilling. While an overflow event is acknowledged, the applicant has explained that the event was due to

blockages which have since been cleared. It is further explained that there are percolation areas and that a subsequent permission resulted in revisions to previous designated percolations areas. This is largely a matter for enforcement although I note that the enforcement section confirms substantial compliance.

7.4.2. I also note that the environment division has no record of registered septic tanks in the vicinity and this is unlikely to be an issue.

7.5. Car Parking

7.5.1. There is concern that there will be a loss of car parking by the appellants. In this case the proposal is adjacent and ancillary to the polytunnels resulting in minimal encroachment into the parking area. There is no evidence of shortfall in carparking and this is not raised as a concern by the planning authority or divisions within. I am satisfied that the development will not result in any significant car parking deficiency.

7.6. Building regulations

7.6.1. The appellant refers extensively to potential breaches of the Building Regulations in respect of the existing premises. These matters are quite detailed and do not strictly fall within the planning code nor are they directly relevant to the proposed containers. Permission does not override the duty of compliance in respect of other legislative codes. It is therefore not reasonable to refuse permission on this basis.

7.7. Conclusion

7.7.1. On balance I consider the proposal accords in principal with planning policy in respect of supporting community enterprise which in this case relates to an established horticultural enterprise for which infrastructure is in place. I am satisfied that the timber screening and landscaping will assimilate the development in this back-land location which is set back from the street and will not detract from visual amenities in the short to medium terms. I do however, for reasons outlined, consider a temporary permission is appropriate due to the nature of the structures and requirements for on-going maintenance.

7.8. Appropriate Assessment

7.8.1. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, 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.

8.0 Recommendation

8.1. In view of the foregoing I recommend a decision to grant permission.

9.0 Reasons and Considerations

Having regard to the existing pattern of development and nature of uses within the community lands that are managed by a local community enterprise body and the nature and scale of the proposed development and development to be retained alongside existing polytunnels and also having regard to the backland location within the site, it is considered that the proposed development subject to conditions would not detract from the character of the area or seriously injure the amenities of property in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and on the 9th day of 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 three containers shall be removed not later than 6 years from the date of this permission and the site of the structures reinstated unless planning permission has been granted for its retention for a further period prior to that date.

Reason: To enable the planning authority to consider the impact of the

development over the stated time period, and in the interests of orderly development.

- 3 Landscaping of the site shall be carried out in accordance with a landscaping scheme which shall include details of the boundary fence, which shall be submitted to and agreed in writing with planning authority prior to the commencement of development.

Reason: In the interest of the visual amenities of the area.

- 4 (a) A plan containing details for the management of waste (and, in particular, green waste) generated by the proposed development within the development, including the provision of facilities for the storage, separation and collection of all waste types shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.
(c) The public road in the vicinity of the site entrance shall be maintained in a clean condition.

Reason: In the interest of amenity, and to ensure the provision of adequate refuse storage.

- 5 The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health

- 6 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. In this regard-
 - (a) Provision shall be made to ensure no surface water discharges to the public road.
 - (b) The existing road side drainage shall not be obstructed by the development.

Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of environmental protection and public health.

- 7 Details of the storage of fertilisers and pesticides shall if any shall be agreed in writing with the planning authority.

Reason: To prevent water pollution.

Suzanne Kehely
Senior Planning Inspector

24th December 2019