



An
Bord
Pleanála

Inspector's Report ABP-306027-19

Development	Retention and completion of works on an existing agricultural shed.
Location	Newtown (Ed Carrick), Carrick, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20191278
Applicant(s)	Sheila Ryan
Type of Application	Permission for retention and completion
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Thomas and Ena Brennan and others
Observer(s)	None
Date of Site Inspection	28 th January 2020
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site is located in the rural townland of Carrick, Newtown, on the edge of the town of Wexford. The site has a stated area of 0.499 hectares. A private roadway serves the site and a number of residential properties.
- 1.2. Existing development within the site includes a dwelling house, a sand arena, a stable block and a shed.

2.0 Proposed Development

- 2.1. Permission is sought for retention and completion of an extension to an existing agricultural shed. The existing shed has a stated area of 59.7m². The proposed development has a stated area of 29m².

3.0 Planning Authority Decision

3.1. Decision

- 3.2. Permission granted subject to 5 No. Conditions. Condition 5 required that the shed shall be used for dry storage only. All other conditions are of a standard nature.

3.3. Planning Authority Reports

3.3.1. Planning Reports

- The planner's report dated the 29th day of October 2019 considered that the application was premature pending an application to regularise the existing agricultural shed on site.
- A supplementary report dated the 30th day of October 2019 included aerial photographs demonstrating that the shed was present on the site in 1995. It was considered that the original shed was constructed when the 1977 Planning and Development Regulations were relevant. It was considered *'unreasonable at this point to seek regularisation of a structure that has presented no issues, is in-situ for at least 24 years, and was more than likely exempted from planning at that time.'*

3.4. Prescribed Bodies

- Department of Agriculture, Food and Marine questioned the proposed usage of the shed. It was recommended that the proposed design of the building is suitable for use as a dry store, however, it is not suitable for the housing of horses.

3.5. Third Party Observations

- Three third party observations were submitted to the Planning Authority. The issues raised are similar to the issues raised in the appeal.

4.0 Planning History

PA 0044/2018 – on site

Warning letter issued to the applicant dated the 6th day of June 2018 regarding possible unauthorised development consisting of the erection/extension of an agricultural building.

PA 2019/0675/ ABP 305665

Current appeal to ABP. Permission granted by Planning Authority for house on footings of approved garage on site to the east of ABP-306027-19.

5.0 Policy Context

5.1. Development Plan

Wexford Town and Environs Development Plan 2009-2015 (Extended)

- Site is zoned as Residential- Super Low Density

Wexford County Development Plan 2013-2019 (Extended)

Section 6.4.6 Agriculture

- Objective ED20: To facilitate and support the development of sustainable agriculture practices and facilities within the County subject to complying with

normal planning and environmental criteria and the development management standards in Chapter 18.

- Chapter 18: Development Management Standards:

Section 18.23: Agricultural Buildings:

The Council will encourage and facilitate agricultural development subject to the following criteria:

- The impact on the character and amenity of the immediate and surrounding area.
- There are no suitable redundant buildings on the farm holding to accommodate the development.
- The proposal will not impact negatively on the traffic and environment of the area.
- The Council recognises the need for agricultural buildings and acknowledges that there is often a requirement for these structures to be significant in scale. Notwithstanding this, these buildings will be required to be sympathetic to their surroundings in terms of scale, materials and finishes. The building should be sited as unobtrusively as possible and the finishes and colours used must ensure the building will blend into its surrounding and landscape. The use of appropriate roof colours of dark green and grey will be required. /Where cladding is proposed, it shall be dark in colour also.

5.2. Natural Heritage Designations

5.2.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 200m to north-east of the site.
- The Wexford Harbour and Slobbs Special Protection Area (Site Code:004076), approximately 1km to north-east of the site.

5.3. EIA Screening

- 5.3.1. Having regard to the minor scale of the development there is no real likelihood of significant effects on the environment arising from the development to be completed and retained. 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 grounds of appeal can be summarised as follows:

- Concerns regarding unauthorised development on site.
- Concern that building may be used to house horses in future.
- The Planning Authority should have sought clarification regarding the use of the structure and/or included a condition that the structure is not to be used for housing/ keeping of animals.
- The site is used for horse training of up to 10 horses at any one time with no planning permission.

6.2. Applicant Response

The response submitted on behalf of the applicant can be summarised as follows:

- The stable yard, stable buildings and associated shed have been extant there prior to the aerial photograph included. The Planning Authority were content that the existing structures did not require regularisation in terms of planning permission. It is worth noting that the stable yard and stables in question were in existence prior to the construction of houses across the lane where the appellants now dwell.
- The application for the extension to the shed is to be used for dry storage only.
- The farm and associated buildings are for private use, are not commercial in nature and represent a small holding.

- The applicant received advice from the local authority at the time of construction of the sand arena and this is considered to be exempted.

6.3. **Planning Authority Response**

- None.

6.4. **Observations**

- None

7.0 **Assessment**

7.1. Having regard to the submission on file and my inspection of the appeal site, key matters for the appeal are:

- Unauthorised development and principle of retention
- Impact on residential amenity
- Other matters
- Appropriate Assessment

7.2. **Unauthorised development and principle of retention**

7.2.1. In terms of unauthorised development, the matter of concern to the appellants relates to the existing 59m² shed and the sand arena. It is also suggested in the appeal that a commercial operation is taking place on the site which has intensified from the training of 2-3 horses up to 10 horses over the last 5-10 years.

7.2.2. The supplementary planning report by the planning authority provides an aerial photograph which indicates that the shed was present on the site in 1995. Under Class 9 of the Exempted Development Planning Regulations 1977 – Rural, the Planning Authority considered the existing shed to be exempted development.

7.2.3. The appeal makes the case that this photograph is not clear. The response to the appeal states that the shed has been in place prior to the aerial photograph and notes that the Planning Authority were content that the existing structures did not require regularisation of planning permission.

7.2.4. On the site inspection, I noted that the shed and sand arena have been in place for a substantial period of time. The site is located on a private road and there was no activity on the site or signage to indicate that there was commercial activity associated with the training of horses. The Planning Authority have accepted that existing development on site is exempted. They have not raised any issues in relation to commercial activity. The Board has no role in enforcement matters. As such, I am satisfied that the Board have no further role in this matter.

7.3. **Impact on residential amenity**

7.3.1. The appellants main concern in relation to the impact on residential amenity is as follows: *'over the last 5-10 years the appellants have observed the use of the site for horse training intensify from 2-3 horses to up to 10 horses at any given time with no planning permission. This has significant implications with regards to traffic to and from the site which usually consists of large vehicles with horseboxes which access the site via the residential avenues and not the applicant's entrance drive.'*

7.3.2. The response from the applicant states that the road in question is not a public road but is a private road to which the applicant enjoys a full right of way. It is stated that the farm and associated buildings are for private use, are not commercial in nature and represent a small holding. It is stated that the farm has not grown in intensity since the applicant purchased it in the early 1970's.

7.3.3. At the time of inspection, I noted that there is signage which indicates that the road is a private roadway. The land registry maps indicate that the applicant has a right of way to her property at this location. There was no commercial activity at the time of the site inspection and there was no signage associated with any commercial activity.

7.3.4. The application before the Board is for the retention and completion of a 29m² extension to an existing shed. The stated use of the shed is for dry storage only. It is stated that the applicant visited the planning office to obtain advice on extending the shed after storm and snow damage to the existing shed in the winter of 2017.

7.3.5. Having reviewed the submitted documentation, I am satisfied that the proposed development will not have an undue impact on the residential amenities of the area.

7.4. Other matters

- 7.4.1. The appellants have requested that in the event that the Board sees fit to permit the proposed development, a condition be attached clearly stipulating that the proposed structure cannot be used for keeping animals.
- 7.4.2. Condition 5 of the Planning Authority decision is as follows: 'The shed shall be used for dry storage only.'
- 7.4.3. Should the Board be minded to grant permission, I consider that it may be useful to reword this condition to exclude both commercial activity and the housing of animals in the interest of clarity.
- 7.4.4. I note that concerns are raised in the appeal regarding encroachment of the shed on the private right of way. The Planning Authority consider this to be a civil matter and I would concur with this view. As such, the Board has no further role in this matter.

7.5. Appropriate Assessment

- 7.5.1. Having regard to modest scale of the development and the use as a dry goods store, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

9.0 Reasons and Considerations

- 9.1. Having regard to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention and completion would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic and convenience and

would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained, carried out 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 and the development shall be retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The agricultural shed shall be used for dry storage only in connection with the subject landholding and shall not be used for the housing of animals or for commercial purposes.

Reason: In the interest of clarity and orderly development.

3. The roof and elevational cladding of the shed shall be coloured to match the existing farm complex.

Reason: In the interest of visual amenity.

4. Arrangements for the disposal of surface water shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the

authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Emer Doyle

Planning Inspector

30th January 2020