



An
Bord
Pleanála

Inspector's Report ABP-306234-19.

Development	Permission for the construction of shed for storage of agricultural machinery and domestic storage with attached stable block consisting of 2 stables and a tack room and all associated site works.
Location	Curryhills, Prosperous, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	19/261.
Applicant(s)	Anne Marie Casey.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Anne Marie Casey.
Observer(s)	None.
Date of Site Inspection	16 th March, 2020.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1.1. The subject site is located on the Prosperous to Clane road, the R403, approximately 500m to the east of Prosperous. There is a continuous footpath from Prosperous to the subject site and beyond and the site lies within the speed limit for the town. The wider area is generally residential in nature with a number of one-off houses evident along the public roads. The subject site lies just outside the zoned land area of Prosperous.
- 1.1.2. The site is currently occupied by a large 2 storey detached house, which is indicated as having a floor area of 396m². The site has a stated area of 0.453ha and is set back from the public road by a drive with a width of between 6-8m. The entrance is defined by wing walls and gates which are +2m in height. The house on the site is set back 120m from the public road while the site of the proposed shed is to be locate to the rear of the house, and approximately 140m from the public road. The site boundaries comprise mature hedges and trees with the buildings on the site generally shielded from view from the public roads.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of shed for storage of agricultural machinery and domestic storage with attached stable block consisting of 2 stables and a tack room and all associated site works, all at Curryhills, Prosperous, Co. Kildare.
- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form
 - Cover letter
- 2.3. The proposed structure will, if permitted have a stated floor area of 186m² and will rise to an overall height of 5.489m. The footprint of the proposed building will provide for a storage area of 160m² to accommodate the applicants agricultural machinery, with two stables approximately 9.5m² each and a tack room with a floor area of 9.5m². The building will have a plaster finish to the walls with a Nordman roof profile. The eastern elevation will include a tall roller shutter type door while the southern elevation will include 3 hardwood half stable doors.

2.4. Following the response to the FI request, the applicant amended the proposal to provide for a separate shed, with a floor area of 85m² to be located to the rear of the house. The amended proposal will have an overall height of 5.526m and will be constructed with a plaster finish and metal cladding. A tall roller shutter door is again proposed. In addition to the shed, a separate stable block is proposed to be located to the south of the house, and along the southern boundary of the site. This L shaped block will rise to approximately 5.08m in height and will have a floor area of 64m² including 2 stables, with a floor area of 27.65m² and 16m² and a tack room of 19.2m². The proposed dungstead and a 400litre effluent tank is to be located adjacent to the stable block.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the development for the following stated reasons:

1. Having regard to the cumulative scale of the storage shed and stable block and the lack of detailed documented justification for both the storage shed and stable block, to permit the proposed development would introduce a development of a scale that is inappropriate for this rural area, would set an undesirable precedent for similar scaled development in such rural areas without any justification, and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the unclear calculations submitted in relation to the dungstead and effluent holding tank, in addition to the volumes suggested and the required storage periods, it is considered that the development may result in pollution, would be prejudicial to public health and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planning report considered the proposed development in terms of the planning history, submission made and compliance with the Kildare County Development Plan 2017-2023. The report concludes requiring further information in relation to the scale of the proposed shed, noting that permission was refused recently for a shed on the site which had a smaller floor area, and issues in relation to the solid waste arising from the stables. The report includes AA screening.

Following a receipt of the response to the FI request, the planning report notes the subsequent technical report from the Environment Section and concludes that planning permission should be refused due to inadequate information submitted and inadequate time to required clarification of the FI response. This report formed the basis of the PAs decision to refuse permission for the retention of the development.

3.2.2. Other Technical Reports

Transportation: No objections subject to compliance with conditions.

Environment Section: Further information required in relation to solid waste from the stables.

Following the submission of the response to the FI request, the Environment Section of Kildare County Council advised that clarification was required in relation to the calculations for the dungstead and effluent holding tank.

Water Services: No objection subject to compliance with conditions.

Area Engineer: No objection.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Submissions

None.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref 17/750: Planning permission was granted to the current applicant for the construction of a two storey front and side extension with single storey side extension element to existing detached two storey house and all associated site works at Curryhills, Prosperous, Co. Kildare.

PA ref 18/581: Planning permission was sought by the current applicant for

- (a) two storey front and side extension with single storey side extension element as constructed.
- (b) conversion of existing single storey side garage to habitable space including new window arrangement to front elevation and including new roof on existing single storey element.
- (c) attic conversion as constructed including dormer windows to front elevation.
- (d) existing window arrangement on rear elevation. All works to original two storey detached house.
- (e) permission for the construction of a detached shed and all associated site works.

The Board will note that Kildare County Council issued a split decision whereby elements (a) – (d) were granted planning permission and the proposed detached shed was refused permission for the following reason:

Having regard to the external finishes, scale, massing & design and to the lack of a detailed justification for a domestic storage shed of this size, to permit the proposed development would introduce a development of a scale that is inappropriate for this rural area, would set an undesirable precedent for similar scaled development in such rural areas, and would therefore be contrary to the proper planning and sustainable development of the area.

The Board will note that the scale of the building refused in the above decision had a stated floor area of 144m² and comprised a storage area, a canoe store, quad store, turf store and garage under the same roof and in a building which proposed an

overall height of 5.526m. This building was to be located to the rear of the existing house and along the northern boundary of the site.

5.0 Policy and Context

5.1. Development Plan

The Kildare County Development Plan 2017-2023 is the relevant policy document relating to the subject site.

5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Ballynafagh Bog SAC (& pNHA)(Site Code 000391) which is located approximately 1.5km to the west of the site. Ballynafagh Lake SAC (& pNHA)(Site Code 001387) is located approximately 3km to the north west of the site.

The Grand Canal pNHA (Site Code 002104) is located 2.3km south of the site.

5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature 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

This is a First party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal is summarised as follows:

- It is clear from an analysis of the PAs report that the real reason for refusal is an assumption that the garage will be used for commercial purposes. The PA

highlighted the applicants business and suggests that the business is run from the house which is not true.

- The applicant does the business accounts from home which is not unusual and the applicant should not be negatively assessed on this assumption of business use.
- The PA strayed outside the scope of their role and the request to provide a list of documentation to prove the need for the shed is highly personable, subjective and not reasonable for such a small domestic development. The PA has assessed the development in terms of what it could be rather than what is applied for.
- Clane Building Works operates from an established industrial unit close to the applicants land. There will be no commercial works in the proposed shed.
- The decision to appeal rather than re-apply was made as it is suggested that the PA are over-prescriptive and have over-analysed this minor application for development.
- An explanatory letter and detailed reason for the need for the shed was submitted with the application so the issue of lack of sufficient information is not accepted.
- The site is an established residential development which cannot be seen from any public vantage point and the adjacent lands are zoned for Industry and Warehousing use.
- When the applicant bought the house she demolished a large garage of approximately 85m².
- The applicant has a parcel of land which her children use to ride their ponies but the ponies are to be housed closer to their home for ease and security purposes.
- The applicant submits details of the applicants personal possessions which are kept at the house.

- Teagasc were reluctant to discuss such a small development and the Environment Section does not give a reason as to why the submitted calculations were not acceptable or what was incorrect with the proposal.
- Teagasc do not offer a service to provide written advice for 2 pony stables and do not have an agreement with KCC to discuss all such developments. It is therefore strange that KCC are insistent that Teagasc be contacted and the name of the environment officer is illegible so contact cannot be made.
- The PAs assessment of the proposed development is extremely negative, and the issues raised could have been dealt with by way of condition. It should not be necessary to appeal such a small development.

6.2. Planning Authority Response

The Planning Authority submitted a response to the first-party appeal. The response notes that the information provided with the appeal was not included in the original application or submitted as part of the response to the further information request which sought justification for the shed of the scale proposed. The PA could not seek clarification for the further information as the response was received on the final day of the statutory period for further information.

In addition to the above, a report from the Environment Section of Kildare County Council is included in the PAs response to the first-party appeal. The report notes that the original planning application contained no details or calculations for a dungstead or effluent holding tank, which was the reason for the FI request. While calculations for the dungstead were provided on the drawings, the basis of the calculations was unclear. The volumes were significantly lower than the PAs calculations and refusal was recommended rather than deal with the issue by way of compliance. It is further submitted that it is not the PAs responsibility to carry out the calculations for the applicant and the applicant did not seek clarification from the Environment Section, who would have been available.

The applicant did not advise at any stage, any difficulty in obtaining advice from Teagasc and the first time it is mentioned is in the appeal.

6.3. **First Party Response to Planning Authority's Response to First Party Appeal**

The first party submitted a response to the PA's submission, which is summarised as follows:

- The level of scrutiny for a small application is not what would normally be experienced.
- The Council have assessed the small application as if it were a major development.
- The applicant should not have to justify a domestic garage or a 2 pony stable block.
- The dungstead and holding tank calculations are entirely clear on the drawings submitted.
- A holding tank of 0.6m³ (600 litres) and 1200m³ dungstead storage for the development is required, which should have been conditioned.

6.4. **Observations**

None.

7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the planning history associated with the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Planning History & Principle of Development
2. Other Issues
3. Appropriate Assessment

7.1. Planning History & Principle of Development:

- 7.1.1. Permission is sought for the construction of shed for storage of agricultural machinery and domestic storage with attached stable block consisting of 2 stables and a tack room and all associated site works, all at Curryhills, Prosperous, Co. Kildare. The original structure proposed a stated floor area of 186m² and would rise to a height of 5.489m. The proposed building provided for a storage area of 160m² to accommodate the applicants agricultural machinery, with two stables approximately 9.5m² each and a tack room also 9.5m² in area. The building proposed a plaster finish to the walls with a Nordman roof profile. The eastern elevation included a tall roller shutter type door while the southern elevation included 3 hardwood half stable doors.
- 7.1.2. Following the response to the FI request, the applicant amended the proposal to provide for a separate shed, with a floor area of 85m² to be located to the rear of the house. The amended proposal will have an overall height of 5.526m and will be constructed with a plaster finish and metal cladding. A tall roller shutter door is again proposed. In addition to the shed, a separate stable block is proposed to be located to the south of the house, and along the southern boundary of the site. This L-shaped block will rise to approximately 5.08m in height and will have a floor area of 64m² including 2 stables, with a floor area of 27.65m² and 16m² and a tack room of 19.2m². The proposed dungstead and a 400litre effluent tank is to be located adjacent to the stable block.
- 7.1.3. The subject site comprises a large residential site with a large two storey detached house. The Board will note that planning permission was refused for a similar type development on the site for reasons relating to the size and scale of the building, which was considered inappropriate for the rural area and if permitted, would set an undesirable precedent. The appellant is concerned that PA suggest the need for the shed arises due to the applicants business which is not the case. It is submitted by the applicant that the machinery to be kept on site are personal farming equipment as well as the normal domestic requirements associated with most rural dwellings.
- 7.1.4. In the course of the PAs assessment, further information was requested, and the appellant amended her proposal as described above. I propose to consider the amended development only as part of this assessment. In terms of the principle of

the development, the policies and objectives as set out in the Kildare County Development Plan, 2017-2023 is the relevant policy document. The appeal relates to the provision of an albeit large, domestic shed and a stable block. I would not necessarily agree with the appellants agent that the proposed development should be considered miniscule and a domestic garage given the scale of the building proposed. Even at the reduced floor area of 85m², I consider this to be a large shed for domestic purposes. That said, I do accept the bone fides of the appeal, as well as the fact that the subject site lies in the open countryside on a large residential site and in principle, I have no objection to the proposed development.

- 7.1.5. While I note the content of the appeal document, I would accept that the additional information requested by the PA does not appear to have been submitted prior to the appeal stage. As part of the appeal, the appellant has submitted details of the machinery to be kept in the 85m² shed which includes a tractor and a teleporter, as well as other domestic equipment. I note that the applicant also owns a landholding of 4.5ha approximately 2km to the north of the home house, and where the children ride their ponies and where the applicant farms.
- 7.1.6. In terms of the visual impacts associated with the proposed shed, the Board will note that it will not be visible from any public road due to the existing mature site boundaries containing hedgerows and trees. The overall height of the shed is indicated at 5.526m and it will be constructed with a plaster finish and metal cladding. I am satisfied that the development is acceptable.
- 7.1.7. In terms of the proposed stable block, the applicant proposes to locate the L-shaped building, comprising 2 stables and a tack room, to the front of the site. The building will be located behind existing trees and will not be visible from the public road. The stable block will rise to approximately 5.08m in height and will be finished with a plaster finish and a blue/black slate roof to match the house on the site. hardwood half stable doors are also proposed. I have no objection to this element of the development proposed.
- 7.1.8. Finally, permission is sought for a dungstead and a 400litre effluent tank, both of which are to be located adjacent to the stable block. The size of these elements has been determined by the fact that the stable block will house 2 ponies. A dungstead with a capacity of 4m³ and an effluent holding tank of 400litres is proposed to serve

the stables. In response to the PAs response to the First Party Appeal, the Board will note that the appellant submitted details amending the capacity of the proposed effluent storage tank from 400 litres to 600 litres. I have no objection in this regard.

7.1.9. Prior to the commencement of any development on site however, a clear site layout plan should be submitted to the Planning Authority which clearly delineates the hard-standing areas of the overall site and the open space / soft landscaped area. A full landscaping plan for the site should also be agreed with details to protect the existing trees on the site boundary during construction.

7.1.10. Overall, I conclude that the proposed development is acceptable.

7.2. Other Issues

7.2.1. With regard to the concerns of commercial activity at the site, I am satisfied that this matter can be dealt with by way of condition of planning permission.

7.2.2. I am satisfied that the proposed development will not give rise to significant impacts in terms of roads and traffic.

7.3. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Ballynafagh Bog SAC (& pNHA)(Site Code 000391) which is located approximately 1.5km to the west of the site. Ballynafagh Lake SAC (& pNHA)(Site Code 001387) is located approximately 3km to the north west of the site. The Grand Canal pNHA (Site Code 002104) is located 2.3km south of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the information submitted in support of the appeal, to the provisions of the Kildare County Development Plan 2017-2023, to the pattern of development in the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development, would not give rise to traffic hazard, would not seriously injure the residential or visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 1st day of November, 2019, and details submitted to the Board on the 20th day of December, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed shed shall be restricted to the storage of the agricultural machinery and domestic storage described in the details submitted to the Board on the 20th day of December, 2019, unless otherwise

authorised by a prior grant of planning permission. No commercial activity is permitted.

Reason: To clarify the permission granted and to protect the amenities of property in the vicinity.

3. A full landscaping plan for the site shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development. A clear site layout plan shall be submitted to the Planning Authority which clearly delineates the hard-standing areas of the overall site and the open space / soft landscaped area.

All trees and hedgerows within and on the boundaries of the site shall be retained and shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species.

Reason: In the interest of visual amenity.

4. All foul effluent and slurry generated by the proposed development shall be conveyed through properly constructed channels to the proposed storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road. The capacity of the dungstead and the effluent holding tank shall be submitted, and agreed in writing with, the Planning Authority prior to the commencement of any development on site.

Reason: In the interest of public health.

A. Considine
Planning Inspector
31st March 2020