



An
Bord
Pleanála

Inspector's Report ABP-306235-19.

Development	Construct agricultural storage shed in existing farmyard.
Location	Kinlough, Shrule, Co. Mayo.
Planning Authority	Mayo County Council.
Planning Authority Reg. Ref.	18886.
Applicant	Brendan Corbett.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant	Helena Hickey.
Observer	None.
Date of Site Inspection	26 th March 2020.
Inspector	Mairead Kenny.

1.0 Site Location and Description

- 1.1. The site is located in a rural area to the west of the N84 Headford to Ballinrobe road and close to the southern boundary of County Mayo. The site comprises a portion of land positioned to the rear of a two-storey dwelling house and accessed by way of a private lane located to the south-east of that house. The public road which serves the area is narrow but would not be heavily trafficked.
- 1.2. The subject site comprises a farmyard complex and other associated lands. The stated site area is 0.81 ha. On site at present is a general purpose farm shed (120 m²), a slatted shed (196 m²) as well as a silage slab. The subject development relates to an area within the north-western corner, which is to the rear of the slatted shed and which is presently paved in concrete and at the time of inspection was in use partly for storage of farm machinery.
- 1.3. Photographs which were taken by me at the time of inspection are attached.

2.0 Proposed Development

- 2.1. Permission is sought for the following:
 - agricultural storage shed
 - stated area 278 m²
 - to be located in existing farmyard.

Further information was received by the planning authority on the 9th of October 2019. This included:

- correspondence from a solicitor outlining the ownership details which indicated that the lands were not yet registered
- a nutrition management plan for the farm associated with the planning permission
- a statement that the shed will not have a slatted tank as it is intended for storage of agricultural machinery and other farm storage
- drawing BC – 06 REV A and associated landscaping
- drawing BC – 05 REV A and details of site visibility lines at the junction

- a statement that the entrance to the farmyard from the existing road had been in place since 2012 and that it came about as a result of changes to the family farm
- a statement that the entrance position is a Court Ruled entrance position
- copies of proposed stormwater disposal design specification outlining how surface water will be disposed for the existing and proposed development.

On foot of a direction by the planning authority further notices were published. These were received on 31 October 2019.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions including:

- development to be in accordance with documents submitted to planning authority on the 09/11/18, 09/10/19 and 31/10/19
- requirements relating to land spreading and farm yard waste
- requirements relating to surface water management and disposal
- requirement that there be no change in the approved method of agricultural waste storage and disposal on site and livestock manners not to be increased in a manner that results in storage requirements being exceeded
- all construction and demolition waste be in accordance with national regulations.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report dated 10th of January 2019 recommends further information be sought in relation to:

- legal entitlement

- nutrient management plan for proposed slatted shed and existing slatted sheds within farmyard complex
- landscaping scheme to create effective screening
- visibility lines at the junction
- surface water disposal to address soiled and unsoiled surface water.

The final planner's report which is dated 12th of November 2019 notes:

- the basis of the third party objection is related to land ownership. There are existing slatted sheds and general purpose farm sheds within the red site boundary and an existing dwelling house to the immediate site outside the applicant's ownership. There is no objection to the proposed development. Permission is recommended subject to conditions.

3.2.2. Other Technical Reports

The report of the Executive Engineer dated 20th of November 2018 notes:

- the visibility splay onto the local road is substandard
- the local road is very narrow.

3.3. Prescribed Bodies

No reports.

3.4. Third Party Observation

The observation includes a number of points which are reiterated in the appeal. The issues raised are related to legal dispute, traffic, unauthorised use, to the incompatible nature of the use, residential amenity and surface water disposal.

A further submission, which was received in relation to the further information refers.

This observation:

- disputes the legal issues
- notes that the applicant does not have consent to cut back hedges

- notes that the existing shed on site is un-authorized as it was not constructed in accordance with the drawings lodged with P03/3517 and by reason of its location and use
- notes the unauthorised container for storage purposes and large amounts of oil and diesel and the undertaking of welding.

4.0 Planning History

Planning reg. ref. 033517 refers to the lands to the south-east of the site, where the appellant resides. The application relates to a grant of permission for a dwelling house and associated works. Under condition 2 the proposed garage/shed was restricted to use as a private domestic garage/shed.

5.0 Policy Context

5.1. Development Plan

Under the provisions of Appendix 2 of the Mayo County Development Plan 2014 – 2020 the following applies:

- section 29.3 – rural enterprises will be considered in all rural areas subject to no adverse impacts on neighbouring property or on the environment
- section 56.1 recognises the importance of agriculture and agricultural diversification
- section 56.2 sets out the requirement to comply with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2010
- section 56.3 states that large-scale agricultural development / related processing will generally be permitted subject to the proper planning and sustainable development of the area.

5.2. Natural Heritage Designations

The nearest European Site is Lough Corrib SAC 400m to the west and 300m to the south.

6.0 The Appeal

6.1. Grounds of Appeal

The main points of the appeal are:

- My house is to the south of the proposed development. The farm buildings, which are subject of legal proceedings were originally connected to the house, which is now my family home. The boundaries are disputed.
- The position and scale of the garage building are at variance with the permission P03/3517. This building is also subject to legal proceedings and its ownership not resolved.
- The access road to the existing farm yard was constructed in 2013 without permission and is un-authorized. The sight lines at the entrance location are not in compliance with visibility standards and pose a traffic hazard.
- The garage and yard are being used for running an agribusiness which involves high intensity traffic movements during harvesting and silage season and further traffic related to repair and servicing of equipment owned by third parties. This is the primary use and not ancillary use for the farm.
- The additional building will consolidate the current unauthorised use of the area and create a greater conglomeration of buildings with intensification of use which will further reduce the amenity of my property.
- Proposals for surface water from the proposed development are not clear and currently water discharges onto my property from areas under the application from downpipes and surface flow.
- In summary the development is injurious to the amenity value of my house due to its extensive use as an agri-business and further intensification of the

development will exacerbate this issue and may be interpreted as a consent to its continued unauthorised use.

6.2. **Applicant Response**

None.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

7.0 **Assessment**

The issues arising in this appeal may be summarised as follows:

- whether the proposal would result in consolidation of unauthorised development
- whether the nature of the uses relates to commercial activity
- whether the development would constitute an intensification contrary to residential amenities
- whether the proposal would constitute a traffic hazard
- whether the proposals for surface water are acceptable
- appropriate assessment.

Regarding the possible status of the existing shed, which the appellant states is unauthorised due to its location and size as well as its use, I note as follows:

- the appellant submission is that under condition of the previous permission P03/3617 the use of the shed is limited to use for private domestic garage/shed and not at any time for agricultural/industrial/commercial purposes

- my conclusion is that that condition which relates to lands associated with the dwelling house has no relevance to this case insofar as the subject garage does not appear to have been constructed within the site
- the Board may wish to consider whether the existing general farm building is an unauthorised structure
- I note also that the appellant has referenced an unauthorised container on the site which is used for storage purposes and refers to large amounts of oil and diesel being stored and welding being undertaken
- all matters for enforcement lie with the planning authority and there is no indication that the planning authority had any issues relating to any buildings or structures including the access road and entrance.

Having regard to the above I recommend that the Board restrict its considerations to the subject building.

The appellant states that the effective purpose of the proposed building is related to a commercial activity which takes place during the harvesting period and *inter alia* includes the repair of vehicles owned by third parties. Again, I refer to the lack of comment in the planning authority reports on this matter. At the time of inspection no such activity was taking place. While there were a number of large machines in place within the farmyard complex, there were no duplicates of any machinery. The applicant has provided information regarding lands in his ownership or lands which he leases. Based on the available information I have no evidence to draw any conclusions which would support the appellant's contention that the purpose of the development is related to commercial activity or that the scale of the structure is excessive.

For the same reasons I consider that there is no reason to conclude that the shed would give rise to an intensification of use which would by reason of noise or other disturbance adversely impact on the appellant's house. Furthermore, I consider it appropriate that the building be positioned within the farmyard complex. Given this location, the visual impact associated with the development would in my opinion be minimal. The planting of large trees is proposed by way of further information submitted to the planning authority and would be an intrinsic part of the proposed development. Other than a condition relating to external finishes, I do not consider

that further conditions are required in relation to residential amenity. For clarity the Board may wish to consider the attachment of a condition relating to the use.

Regarding the sightlines at the entrance the appellant has noted that the applicant is not the owner of the land on either side of the entrance and has no consent to cut back hedges for the purposes of maintaining any sightlines. It is the applicant's submission that the sightlines are measured at a point 3m back from the road edge and that they were undertaken without any alteration of hedgerows or alteration of existing boundary walls. The entrance which is in place is stated to have come about as a result of changes to the family farm and to be in place since 2012. The entrance position is also stated to be court ruled at that time. I note that there is a general requirement that maintenance of roadside vegetation falls to landowners, which in this case would be third party and not the applicant. I also note that the planning authority was satisfied with the development. I conclude that the development is acceptable in terms of traffic safety.

Regarding the surface water proposals, having regard to the nature of the development no requirement for detailed proposals would be reasonable at this point and the matter arising would normally be left for agreement with the planning authority. The planning authority in this case requested further information relating to surface water and also to nutrient management. The document submitted includes information relating to the areas to be drained by a proposed new soakpit and it would be required that these be installed as part of any permission granted. Having regard to the documents submitted as part of the further information I considered that the development is acceptable in terms of surface water impacts. Reference to the 2014 Regulations and attachment of a standard condition regarding agreement on surface water management would be appropriate. Condition 8 attached by the planning authority however which relates to no increase in livestock numbers and other matters is not relevant given the nature of the development.

A number of other issues, which relate purely to private legal matters are outlined on the application file. Having regard to the provisions of section 34(13) of the Planning and Development Act as amended, whereby a person is not entitled solely by reason of a permission under section 34 to carry out any development, resolution of these matters lies outside the bounds of this permission. I do not therefore propose to address them in this report.

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the lack of any direct hydrological connection between the site of the proposed development and Lough Corrib SAC or any other European site, I am satisfied that 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. I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

9.0 Reasons and Considerations

Having regard to its rural location as part of an established farm complex, it is considered that, subject to compliance with the conditions set out below, the proposed development would be a reasonable intensification of an established agricultural farmyard use in a rural area where the established land use is agriculture. The proposed development would not seriously injure the amenities of the area or of property in the vicinity 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 in accordance with the plans and particulars lodged with the application as amended by the further information received on the 9th of October 2019 and 31st of October 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 use of the building shall be strictly in accordance with the operation of the applicant's farm and lands under his control and shall not be for commercial purposes.

Reason: In the interest of clarity.

3. The roof and side cladding of the proposed structure shall be finished in a dark grey or dark green colour unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity

4. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

Reason: In the interest of orderly development by reserving the capacity of effluent and storage tanks for their specific purposes.

5. The disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason : To ensure the satisfactory disposal of surface water, in the interest of amenity and to prevent pollution of water courses

6. The operation of the farmyard shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014.

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of water courses.

Mairead Kenny
Senior Planning Inspector

27th March 2020