



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306572-20

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<b>Development</b>	Retention and completion of shed and all associated site works.
<b>Location</b>	Stifyans Cross, Philipstown, Dunleer, Co Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	19714
<b>Applicant(s)</b>	Martin Kelly.
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Grant retention.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Lorrac Developments Ltd.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	8 <sup>th</sup> May 2020.
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

1.1. The 0.07ha appeal site lies c.4.5km west of Dunleer at Stifyans Cross, Philipstown, Co. Louth. It lies to the north of the public road and comprises a triangular shaped site with a partly constructed steel framed shed on a concrete hardstanding. The site is bounded by timber palisade fencing (north), a mature hedgerow (east), metal posts and mature trees (roadside). Vehicular access to the site is from the public road via a gated entrance. To the north (Stephensfield development) and east of the site are residential dwellings and to the south east of the site is St. Kevin's national school. There are intermittent footpaths alongside the public road within the village. On the northern side of the public road a footpath terminates west of the appeal site. (NB the Board's GIS system incorrectly shows the appeal to include land to the east of it. Please refer to appeal file for correct details).

## 2.0 Proposed Development

2.1. The proposed development, as revised by way of significant further information (10<sup>th</sup> December 2019) comprises the retention and completion of a partly constructed shed (69.03sqm) and associated site works. These include:

- Completion of the c.12m x 6m structure to a maximum height of c.3.5m finished in dark green metal cladding.
- Two soakaway trenches to the west of the shed for surface water.
- Creation of a new access to the site, relocated from the current position to approximately the mid-point of the site, with provision of 49m sightlines in each direction, set back by 2.4m from the edge of the public road.
- Creation of a turning area for vehicles with permeable surface.
- Provision of a native thorn hedge alongside the roadside boundary, eastern and part of the northern boundary.

2.2. It is stated that the development will be used for domestic storage (household items, lawnmower) with no requirement for water or production of effluent. Accompanying the planning application is a sunlight analysis (received on the 10<sup>th</sup> December 2019). The application for the development is made of foot of enforcement action (19U076).

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 10<sup>th</sup> January 2020, the planning authority decided to grant permission for the development subject to 3 no. conditions.

- C2 – Shed not to be used as an independent residential unit or any other non-domestic use. Permitted use is for domestic storage only.
- C3 – Governs infrastructure works including requirement for 49m x 2.4m sight lines (as per the further information submitted), no works to commence in advance of provision of sightlines, surface water attenuation and discharge as per the plans submitted, extinguishing the existing gateway/entrance to the site (eastern corner).

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- 22<sup>nd</sup> October 2019 – Comments that additional fees have been paid, a water supply may not be needed depending on use, no objection in principle to use of the land (within 'Development Area') or external appearance, no impact on properties to the north by overlooking. The report recommends further information in respect of use of the shed, location of dwellings to the north, shadow analysis, boundary treatment and landscaping, wells within 100m of the site, drains and streams alongside the site and source of drinking water (if any) and the matters raised by Infrastructure (below).
- 6<sup>th</sup> January 2020 – Refers to the further information submitted, including the restricted use of the shed and limited overshadowing of one dwelling to the north. Recommends granting permission for the development subject to condition.

#### 3.2.2. Other Technical Reports

- Infrastructure (16<sup>th</sup> October 2019) – Requires the applicant to demonstrate 49m in each direction from a setback distance of 2.4m and turning

manoeuvres on the site. Subsequent report (18<sup>th</sup> December 2019) no objections subject to conditions.

- Environmental Compliance (4<sup>th</sup> October 2019) – Recommend further information on what will be stored in shed, wells within 100m, drains alongside/near site and source of drinking water. Subsequent report (13<sup>th</sup> December 2019) recommends permission subject to conditions.

### 3.3. Prescribed Bodies

- None.

### 3.4. Third Party Observations

3.4.1. The appellant makes the following observations on the application:

- **Fee.** Fee calculation is incorrect.
- **Use.** No stated use for the development. Newspaper notice suggests it is for 'domestic' purpose but there is no house/home on the site. The development may be used for commercial purposes e.g. vehicle repair.
- **Plans.** Development to north is not indicated in any drawings. There is no water supply or provision for wastewater on site. The shed is larger in scale than a residential shed, lies close to the northern boundary of the site and properties under construction (nos. 9 and 10 Stephensfield) and will overshadow them.
- **Proper planning and development.** The site is in Philipstown 'development area', in a Level 4 Settlement and is inconsistent with the type of development envisaged (section 2.16.8, County Development Plan). The development contravenes Policy Objectives SS12-SS17. Inadequate sightlines and risk of traffic hazard. No details are provided on how vehicles would turn. The soakaway only caters for the roof only. Development is located in centre of village close to primary school. Provision should be made for footpaths along the roadside boundary of the site. No consideration of how the development integrates with the rest of the village. No information site finishes, landscaping or boundary treatments.

## 4.0 Planning History

- PA ref. 19468 – Retention permission for as constructed base to domestic storage shed and completion of same – withdrawn.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Louth County Development Plan 2015-2021 designates Philipstown as a Level 4 Settlement (Volume 2A, Appendix 1 and 2) and the site falls within the 'development area'. Section 2.16.8 of the Plan states that these are small unserved rural settlements which are not capable of absorbing significant amounts of development but are designated as settlements in order to assist in satisfying rural generated housing needs within a structured but low density environment as an alternative to one off housing. Development is anticipated to be primarily residential but low impact social services which contribute to supporting diversification and growth of the local rural economy will be considered. Development management assessment criteria for Level 4 settlements are set out in Policies SS12-17 of the Plan. These policies relate primarily to residential development e.g. multi-unit development and minimum site area, and state that the design and arrangement of dwellings are complementary and reflect the existing character of the settlement.

### 5.2. Natural Heritage Designations

- 5.2.1. The appeal site is removed from sites of nature conservation interest. The nearest national site is c.2km to the south and comprises Mellifont Abbey Woods, pNHA (site code 001464). The nearest European site is c.6km to the north Stabannan-Branganstown SPA (site code 004091).

### 5.3. EIA Screening

- 5.3.1. The proposed development is of a type that constitutes an EIA project (involving construction works and demolition). However, it is very modest in scale, within a village setting and removed from any sensitive site. Consequently there is no real

risk of significant environmental effects to warrant environmental impact assessment (Class 10, Part 2, Schedule 5, P&D Regulations, 2001 (as amended), infrastructure).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The first party grounds of appeal refer to the matters raised in their observations on the planning application (summarised above) and the following:

- Absence of footpath along road frontage which would link houses to the west of the site to the school in the centre of the village.
- The rationale for the decision is not set out in the planning report (to grant permission for a shed for residential use where there is no associated residential development).
- The planning report states that there were no submissions on the further information submitted, suggesting that the comments made by the appellant were not considered.
- The appellant would be happy to provide the link between the existing footpath and the subject site.

### **6.2. Applicant Response**

6.2.1. None.

### **6.3. Planning Authority Response**

6.3.1. The planning authority refer the Board to the planning reports in respect of the development and state:

- The application is for a domestic garage and it is considered onerous to request that a footpath be provided along the length of the site.
- Condition no. 2 will limit the use of the garage for domestic storage only.



#### 6.4. **Observations/Further Responses**

- None.

#### 7.0 **Assessment**

7.1. Having regard to the information on file and my inspection of the site, I consider that the key issues for this appeal relate to principle of proposed use, scale and impact on adjoining properties, village setting and provision of footpath. Other matters raised by the appellant have been addressed in the course of the planning application (fee, drawings, sightlines, turning area, surface water, finishes and landscaping).

#### 7.2. **Principle of proposed use.**

7.2.1. The appeal site lies in the village of Philipstown, a designated Level 4 settlement, on land which lies within the designated development envelope. The development envelope has been created principally to provide for rural housing, in a more structured form, as an alternative to scattered rural development. However, other 'low impact local services' which contribute to the local economy will be considered.

7.2.2. The applicant states that the proposed use is a domestic one and such a use would fit within the policy context for the site. However, there is no domestic property associated with the proposed development. The planning authority has sought to restrict the use of the development to domestic storage but unless the location of the domestic use is identified, it is difficult to see how it could usefully function as a space for domestic storage (e.g. lawnmower, household items). Further, if the development is substantially removed from its associated domestic base, it would simply function as a store, with little rationale for its location in Philipstown or consistency with the policy framework for development within the village. In this regard I note that no address is given in the planning application form for the applicant, just the agent. Further, the enforcement correspondence on file was addressed to the applicant with an address in Drogheda. In the absence of clarity on this matter, I do not consider therefore that the applicant has demonstrated compliance with the policies of the County Development Plan for the settlement.

### **7.3. Impact on amenity.**

- 7.3.1. Having regard to the scale of the proposed development, its orientation and set back from the adjoining properties to the north, the close boarded fence which separates the developments and the absence of any windows in the proposed structure, I do not consider that any adverse impacts will arise on the property to the north of the appeal site (or other neighbouring properties) by virtue of proximity, overlooking or overshadowing.
- 7.3.2. With regard to the village setting, Philipstown is a small rural village, with housing clustered around a National School and GAA sports ground. Development in the village is a mix of residential and small scale commercial uses with little uniformity or cohesion in structures or public realm (e.g. footpaths, open spaces). Within this context the proposed development, in associated with the proposed landscaping scheme, is not inconsistent with the existing pattern of development and I do not consider that it would substantially detract from the amenity of the area.

### **7.4. Provision of footpath.**

- 7.4.1. The appeal site is located c.30m west of the St. Kevin's National School. A footpath runs along the northern side of the public road, west of the appeal site, but this does not continue beyond the site.
- 7.4.2. As the village has been designated as a Level 4 settlement, where residential growth is planned for and is evident, it would be a reasonable aspiration for the provision to be made for a footpath alongside the public road, in particular in a location in close proximity to the village school. If the Board are minded to grant permission for the development, I would recommend a condition to this effect i.e. setting back the front boundary of the site to the satisfaction of the planning authority, to enable public provision of this in the future.

## **8.0 Appropriate Assessment**

- 8.1. Having regard to the location of the proposed development, within an established rural settlement, the modest nature of the proposed development, limited discharges from the site (surface water only) and its remove from European sites, 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

## **9.0 Recommendation**

9.1. Having regard to the foregoing, I recommend that permission for the proposed development be refused.

## **10.0 Reasons and Considerations**

10.1. Having regard to the policies of the Louth County Development Plan 2015 to 2021 for Level 4 settlements, which seek to facilitate residential development within the development envelope of the village, and the lack of clarity regarding the principal residential use associated with the proposed development, it is considered that the proposed development would contravene this policy and be contrary to the proper planning and sustainable development of the area.

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Deirdre MacGabhann  
Planning Inspector

20<sup>th</sup> May 2020