



An
Bord
Pleanála

Inspector's Report ABP 307167-20

Development	Retain existing portacabin with toilet and canteen, storage container, weighbridge, yard and waste water treatment system and polishing filter.
Location	Glenahilty Bog, Glenahilty, Cloughjordan, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	19/600859
Applicant	Bulrush Horticulture Ltd.
Type of Application	Retention permission
Planning Authority Decision	Refuse
Type of Appeal	1 st party v. refusal
Appellant	Bulrush Horticulture Ltd.
Observer(s)	None
Date of Site Inspection	23/09/20
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The appeal site is located, as the crow flies, approximately half way between Roscrea to the north-east and Nenagh to the southwest. It is in the townland of Glenahilty, which is approx. 4-5km south of the village of Cloughjordan and a similar distance to the northwest of Moneygall. It is accessed from a local road off the R491 (Nenagh-Roscrea/Birr regional road). A private access road leads to the site via a circuitous route.

The appeal site, which has a stated area of 0.360 hectares, is located at the northern extremity of a working bog, immediately adjacent to the end of the access road. A concrete yard covers the majority of the site with a storage container and a number of mechanical vehicles immediately to the north. A portacabin and weighbridge are to the north/north-west of the yard. Excavated material is being stored in the area of the wastewater treatment system and polishing filter.

2.0 Proposed Development

Permission sought to retain:

- Portacabin providing canteen and toilet facilities
- Storage container
- Weighbridge
- Wastewater treatment plant and polishing filter
- Yard area

The facilities are associated with the peat harvesting carried out on the bog.

A Consulting Engineer's report accompanying the application states that the conditions attached to the previous decision on the site under ref. PL22.238742 have been substantially complied with.

The application is accompanied by the Site Characterisation Form dated 2011 which was lodged with the previous application.

Further Information submitted 16/03/20 following a request for same dated 12/09/20 includes:

- Letter from adjoining landowner re. water supply.
- Sightlines at junction of lane and local road. The existing road junction was assessed with a set back of 2.4 metres with clear sightlines of 90 metres in both directions as per TII Road Link Design Table 1.3.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the above described development for 2 reasons which can be summarised as follows:

1. Adequate sightlines have not been demonstrated in accordance with development plan requirements. The proposal would endanger public safety by reason of traffic hazard and obstruction of road users and would set an undesirable precedent. The proposal is considered contrary to development plan policy DM1.
2. Failure to demonstrate availability of an authorised water supply service and, as such, would endanger the health and safety of persons occupying or employed in the portacabin.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Executive Planner's report dated 11/09/19 considers the proposal to be line with Council policy where commercial/industrial/agricultural enterprises exist as non-conforming but long established uses, to support their continued operation and expansion subject to certain considerations. The siting and design are acceptable. Inadequate detail provided on water supply and waste water treatment. Details required on provision of adequate sightlines at the junction of the laneway and local road L1047 which accord with section 10.9.1 of the County Development Plan. A request for further information recommended.

The Senior Executive Planner's report dated 02/04/20 following further information notes that a fee is exchanged for water. No permission exists for the adjoining

property to operate a commercial water supply. Section 10.9.1 of the County Development Plan requires sight visibility to be measured at a set back of 4.5 metres. Based on the drawings submitted availability of adequate sightlines has not been demonstrated. A refusal of permission for 2 reasons recommended.

3.2.2. **Other Technical Reports**

None

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

None

4.0 **Planning History**

2011 - PL22.238742 (10/510299) – permission granted on appeal for installation of proprietary waste water treatment plant to serve the toilet in the portacabin and retention of existing portacabin and storage container.

Condition 2: permission to apply for 5 years. On expiry the structures are to be removed unless subject of a further retention permission.

5.0 **Policy Context**

5.1. **Development Plan**

North Tipperary County Development Plan 2010 (as extended)

Policy ED9: Enterprise in the Open Countryside

Support and facilitate the provision and/or expansion of appropriate small scale rural enterprise in the open countryside within residential sites and in vacant or derelict buildings. Development proposals will be required to meet the following criteria:

a) The development shall not have an adverse impact on the residential, environmental and rural amenity of the area;

b) Any new structure shall be of a scale appropriate to the size of the site, and be sited and designed to ensure it does not detract from the rural setting and landscape character of the area.

c) The development shall comply with the development management standards set out in Chapter 10.

Where the enterprise or activity develops to a scale that is inappropriate by virtue of activity or size in its rural context, the Council will seek to encourage its re-location to a more suitable location on zoned land within towns and villages.

Chapter 10 addresses Development Management

Section 10.9.1 Road Design and Safe Access

In the interest of safety for all road users, the following sight lines are the standard for all development which proposes vehicular access onto the public road network. Adequate sight visibility at new entrances is vital to enable oncoming traffic to be seen when using the entrance and also to enable other road users to see traffic emerging from the entrance

Table 10.1 sets out the sightline requirements:

In terms of local roads greater than 4.25m wide - 90m

The sight visibility triangle is measured at the proposed entrance from a set-back distance of 2.4 m (single residential) or 4.5 m (multiple residential/commercial/agricultural/other).

5.2. **Natural Heritage Designations**

The nearest designated site is Scohaboy (Sopwell) Bog SAC (site code 002206) c. 8km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Tom Phillips & Associates on behalf of the applicant against the Planning Authority's notification of decision to refuse retention permission can be summarised as follows:

6.1.1. Reason for Refusal No.1: Sightlines

- Information provided by way of further information demonstrates that unobstructed sightlines of 90 metres are achieved at the junction onto local road L1047 in accordance with the minimum distances specified in Table 10.1 of the North Tipperary County Development Plan 2010 (as extended).
- Whilst the setback distance of 2.4 metres is below the setback distance of 4.5 metres referenced in section 10.9.1 of the development plan this junction forms part of the existing established local road network.
- In addition to the subject development the unnamed road also provides access to the working commercial bog, residential units, agricultural buildings and multiple agricultural holdings.
- Traffic considerations were not raised as an issue in the previous permission (ref. PL22.2388742) which was assessed having regard to the development plan which is still in force.

6.1.2. Reason for Refusal No.2 – Water Supply

- It is considered that the current arrangements with supply piped from an adjoining landowner are in line with the previous permission.
- In light of the reason for refusal the applicant proposes to install an intermediate bulk water storage container to ensure that the modest water demands of employees are met. It can be replaced/replenished as and when needed.
- There is no endangerment to health and safety of employees in relation to provision of water supply.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

7.0 **Assessment**

The proposal before the Board is for the retention of a staff canteen and sanitary facilities in a portacabin, a wastewater treatment plant serving same, a storage container, weighbridge and yard area only. It does not pertain to any activities associated with peat harvesting on the adjoining bog which could continue in the absence of the proposal.

I consider that the issues arising in the case correspond with the planning authority's reasons for refusal and can be as summarised as follows:

1. Traffic Safety
2. Water Supply
3. Other Issues

7.1. **Traffic Safety**

The site is accessed at the end of an unclassified road at the northern extremity of Glenahilty Bog c.1 .5km from its junction with local road L1047. As per the details provided on the planning application form approx. 3-4 cars and 1-2 trucks per day access the site during harvesting. In addition to the appeal site the unclassified road/access serves the adjoining bog, agricultural buildings and agricultural holdings. Sight lines at the junction with local road L1047 were noted to be reasonable in a southerly direction but were constrained in a northerly direction due to the horizontal alignment. As noted on day of inspection the local road is relatively lightly trafficked. By way of further information sightlines of 90 metres in each direction are available at a setback of 2.4 metres as per TII Road Link Design Table 1.3, which is two steps below the minimum desirable for a design speed of 85kph.

It is noteworthy that the development is the same as that for which permission was sought and secured under ref. PL22238742 in 2011. The North Tipperary County Development Plan 2010 against which the proposal was assessed has been extended and continues to apply. No issues in terms of the adequacy of the junction and the sight lines available was raised during the assessment. The current proposal is seeking to retain the existing facilities on the site. No intensification of use is proposed. I am not aware of any incidents/accidents at the junction with no reference to same made in the Council reports on file.

Having regard to the established use on the site I submit that the retrospective application of minimum sight distances in accordance with applicable standards, whether they be those set out in the NRA DMRB or in the prevailing County Development Plan is not reasonable in this instance. I therefore do not concur with the planning authority's 1st reason for refusal and recommend that it be set aside.

7.2. Water Supply

Water supply to the portacabin is currently provided by an adjoining landowner for an annual fee with a letter of consent submitted by way of further information. The agent for the applicant states that the current arrangements are in line with the previous permission. The issue of water supply was not raised as a concern in the previous appeal referenced above with a condition attached to same requiring water supply and drainage arrangements to comply with the requirements of the planning authority for such works (condition 6)

In light of the reason for refusal the applicant proposes to install an intermediate bulk water storage container to ensure that the water demands of employees are met. It can be replaced/replenished as and when needed.

In view of the modest requirements of the staff facilities and the fact that they do not appear to be used continuously, I consider that the proposed alternative to be acceptable.

7.3. Other Issues

A Consulting Engineer's report accompanying the application states that the conditions attached to the previous decision on the site under ref. PL22.238742, including those pertaining to the waste water treatment system, have been

substantially complied with. As noted on day of inspection material is currently being stored in the area above the said system. To ensure that its integrity is not compromised such material should be removed to an alternative location. I recommend a condition to this effect be attached.

The site and portacabin are maintained and the site is tidy. I would reiterate the view of the Inspector on the previous appeal that, by reason of their temporary nature and proposed use, the structures could become an eyesore if left unmaintained in the longer term should the activities on site cease at some point in the future. Thus, in the interests of visual amenity a further temporary permission for 5 years is recommended.

As per Section 11 of the current Tipperary County Council Development Contribution Scheme 2020 a payment is applicable at a reduced rate for development subject of a temporary permission as is the case in this instance.

Appropriate Assessment

Having regard to the nature and extent of the development and distance to the nearest designated 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

I recommend that retention permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the current North Tipperary Development Plan 2010 as extended, the established use of the site and to the nature and extent of the structures to be retained it is considered that, subject to compliance with the conditions set out below, the development for which retention is sought would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and

convenience. The development for which retention is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12th day of September 2019, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The development hereby granted retention permission is limited to that set out in the public notice.

Reason: In the interest of clarity.

3. (a) This permission shall apply for a period of five years from the date of this order. The portacabin, storage container, concrete yard and any associated ancillary structures shall then be removed from the site and the wastewater treatment plant shall be decommissioned, unless, prior to the end of that period, planning permission for their retention beyond that date shall have been granted.

(b) The site shall be reinstated on removal of the portacabin, storage container, concrete yard and any associated ancillary structures and on decommissioning of the wastewater treatment plant. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the expiry of this permission.

Reason: To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.

4. The material being stored in the area above the waste water treatment system and polishing filter shall be removed within three months of the date of this order.

Reason: In the interest of public health.

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 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.

Pauline Fitzpatrick
Senior Planning Inspector

September, 2020