



An
Bord
Pleanála

Inspector's Report

ABP-308735-20

Development	Demolition of shed and construction of shed for storage of vintage cars – ancillary domestic use and associated works..
Location	Johnstown North, Arklow, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	20156
Applicant(s)	Aaron Doyle
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Sally Kelly + Bruce McKeever
Observer(s)	None
Date of Site Inspection	20 th April 2021
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site is 0.12ha and relates to one of six detached dwellings alongside the former R772 and parallel to the M11 in a rural area approx. 3km north of the northern end of Arklow town. Some of the dwellings appear to be older cottages that have been extended in an ad hoc fashion over many decades. The subject site consists of one such dwelling – the original cottage as depicted by the original decorative roof ridge tiles and chimney (which is consistent with the 1920s o.s. map depicting a single dwelling on the site) has been at least doubled with an extension to the rear with a resultant double pitched roof – retaining the original roof structure. It has a height stated at 4.7m. in addition there are small scale flat roofed extensions. A large shed/garage of 147 sq.m. which would appear visually to predate the rear extension is in close proximity to the house and this shed also has been extended to the rear. The rear of the site is gated and a truck is stored behind the gate. The side of the house is gravelled and serves as a vehicular access to both the shed (with large door) and yard to rear and this is just over 4m at its narrowest due to the shed which is wider than the dwelling . Accordingly the site is limited in its provision for private open space that is directly accessible to the dwelling.
- 1.2. The application form states that water supply is from a private well and the wastewater treatment is by an existing a septic tank. Surface water is discharged to a soakpit.
- 1.3. A watercourse bounds the site to the north and this appears to be culverted under the R772 and/M11 where it then flows directly to Brittas Bay /the Irish sea.
- 1.4. There are utility poles along the south western boundary.
- 1.5. The single storey dwelling to the south west is similarly scaled to the original cottage of the subject site but appears to be of more recent construction (c.1950s). It has been more discreetly extended to the rear. It is set back around 8m from the subject site. It has a modestly scaled and well screened timber store to the front. To the rear there are a number of painted modestly scaled timber structures/sheds along the boundary with the subject site.

2.0 Proposed Development

- 2.1. It is proposed to demolish the shed of 146.7sq.m. to the rear of the dwelling and construct a new shed to the rear of the site . It is 125.9 sq.m (14.5m x 9.37m) and proposed deeper into the site . c 20 from the road and along the boundary with the dwelling to the south west from which it is set back 2m to provide for a row of trees as shown in the site layout plan submitted as further information. It is 8.8m from the opposite boundary with the dwelling to the north east.
- 2.2. The structure comprises nap rendered concrete block walls with a felt roof. The eaves height is 4m with a ridge height of 4.67m and a roller door with a height of 3.76m is centred in the façade. The floor plan consists of one single space. (Previously two roller shutters at a greater height were proposed in a planning application but this has been revised to look less industrial.)
- 2.3. The cover letter states that the shed is for vintage cars /hobby and house storage. It is further clarified that the structure is to house vintage vehicles which includes a Volvo truck in need of restoration over a long time, tractors, a car, a motorbike and Hornsby engine. (photographs submitted as further information)
- 2.4. It is explained that the removal of the shed will allow safe turning of cars rather than reversing onto busy road. No site layout of this is shown.
- 2.5. It is explained the applicant is employed in Somers Commercials and is also on full time breakdown cover outside of normal working hours 8.30-5.30 Mon-Friday and Saturdays and is needed to regularly transport customers' vehicles as well as assisting with emergency service vehicles. This has continued through the Covid pandemic.
- 2.6. It is also explained that there were previously unfounded allegations about the use of the site and that the previous application for a steel shed was withdrawn and the subject proposal is a modified version more in keeping with the houses. It has been reduced in height from 4.6m to 3.37m and evergreen trees are proposed along the south west elevation.

- 2.7. Awaiting site assessment by ESB regarding remaining pole. The ESB requires evidence of permission.
- 2.8. Letters of support from residents in Johnstown North/Ballinaskea are appended.
- 2.9. Photographs of the shed are also appended.

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. Following the submission of further information to its satisfaction, the Planning Authority decided to GRANT permission subject to 4 no. conditions. Condition 3 restricts use to a private domestic use only. 'This shed shall be used for private domestic use only and shall not be used for human habitation or for any commercial purpose.'

3.2. **Planning Authority Reports**

- 3.2.1. **Planning Report:** The planning authority sought Further Information regarding planning status, nature of use – proof of ownership of vintage cars, clarification of height, location of domestic effluent drainage system and site delineation rationale.
- 3.2.2. It is accepted that the shed can be considered as a replacement of an existing shed.
- 3.2.3. It is also accepted that the need for a replacement shed is justified having regard to the proposed contents and notably the Volvo truck (registered in 1995).
- 3.2.4. As this is an existing dwelling the need for a water test is not considered necessary .
- 3.2.5. **Appropriate assessment screening:** Having regard to the nature of development and absence of pathway linking the site to any Natura site no appropriate assessment issues arise and it is not considered the proposed development would be likely to have any significant effect on Natura 2000 sites.
- 3.2.6. **Other technical Reports**

EHO: Initial concerns were flagged regarding septic tank. A site inspection indicated that the existing ground water wells are too close to the septic tank system in this cluster of houses but the occupier informed that they have also a gravity surface water supply which may serve other houses as well. This proposal is not recommended because the existing septic tank is too close to the applicant's and adjoining dwelling with no percolation area. The site is very small and the only free area to provide an effluent treatment system is the area earmarked for the this shed. A new effluent treatment system could be required at some point in the future in the case of an extension or changes to the dwellings.

In further information a letter from Cummin environmental services states that 'following inspection of the septic tank by CCTV located the soak away in the front garden of the house. The location of the soak-away should not interfere with the proposed planning of your shed at the rear of your property. The demolition of the existing shed would assist in the upgrading of your septic tank in the future.'

In a subsequent report the EHO states no objection subject to conditions. This is not explained.

4.0 Planning History

- 4.1. PA ref. 19/412 refers to a withdrawn application for new shed on the subject site.
- 4.2. ED5073 is a enforcement file that refers to alleged unauthorised development of the site. The enforcement file was closed due to the timeframe and given that the submissions from the developer regarding the shed were considered sufficient to confirm the longevity of the shed and its use and is accordingly considered to be for hobby purposes rather than alleged commercial operation for the service/repair/break up of HGV or other vehicles. Consequently there were no grounds for enforcement given the ancillary residential use of this outbuilding.

5.0 Policy Context

5.1. Wicklow County Development Plan 2016-2022

- 5.1.1. The site is in a rural area and is not subject of a zoning objectives. Appendix 1 (A1) sets out development design standards. It provides guidance for domestic extensions and various types of buildings that could be considered pertinent to this application. Appendix 5 sets out landscape criteria.
- 5.1.2. Domestic extensions A1: Given the range of site layouts prevailing, it is not possible to set out a set of 'rules' that can be applied to all extensions, but the following basic principles shall be applied:
- The extension should be sensitive to the existing dwelling and should not adversely distort the scale or mass of the structure;
 - The extension shall not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed;
 - In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities. If for example a two-story dwelling already directly overlooks a neighbour's rear garden, a third storey extension with the same view will normally be considered acceptable;
 - New extensions should not overshadow adjacent dwellings to the degree that a significant decrease in day or sunlight entering into the house comes about. In this regard, extensions directly abutting property boundaries should be avoided,
 - While the form, size and appearance of an extension should complement the area, unless the area has an established unique or valuable character worthy of preservation, a flexible approach will be taken to the assessment of alternative design concepts.
- 5.1.3. Protection of Residential Amenity in Transitional Areas: While the zoning objectives indicate the different uses permitted in principle in each zone it is important to avoid abrupt transitions in scale and use at the boundary of adjoining land use zones. In

these areas it is necessary to avoid developments that would be detrimental to amenity. In zones abutting residential areas, particular attention will be paid to the use, scale, density and appearance of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties

5.1.4. Section 3 A1 refers to consideration for industrial development in rural areas.: Where permission is sought for a commercial / industrial development in a rural area, the application shall be required to include the following information:

- Details of the ownership of the site / buildings and the intended operator of the business;
- Full details of the activity proposed to be carried out, the materials and processes involved, information of plant and machinery and any emissions / wastes arising therefrom;
- Details of staff (full / part time) required to operate the business and the proposed hours of business;
- Details of transportation requirements, the types of vehicles to be used, the estimated number of vehicle movements per day, likely routes of vehicles to major transport routes / the market for the product and evaluation of ability of existing road network to accommodate the development;
- Where a new building is proposed, evidence that the location and design of the structure is optimal having considered both the needs of the business and the environmental sensitivities of the location and where applicable, measures that have been taken to minimise visual impact on the landscape;
- Evaluation of the proposals in terms of likely impacts on scenic value (including listed views and prospects and sensitive landscapes), heritage, local ecology / biodiversity and nearby residences;
- Detailed landscaping proposals

5.1.5. Section 8 A1 refers to on-site wells and the need to protect the source for proposed development dependant on an existing private source.

- 5.1.6. Section 9 A1 refers to waste and emission such as relating to demolition, air emission noise, waste, contaminated land
- 5.1.7. Appendix 5 refers to landscape assessment. The site is located in a low-lying area in the Eastern Corridor landscape category. Development proposals should not unduly impinge on any views or prospects in these areas.

5.2. **Natural Heritage Designations**

- 5.2.1. Buckroneys-Brittans Dunes And Fen SAC (Site code 000729) is 800m east of the site.

5.3. **EIA Screening**

- 5.3.1. Having regard to nature and scale of the proposed development and the urban location 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**

- 6.1.1. Sally Kelly and Bruce McKeever of Johnstown North have lodged an appeal against the decision to grant permission. The grounds of the appeal are based on the following points:
- The description of the proposal is inaccurate and accordingly so is the nature of the permission. The shed consists of 3 sheds and the vehicles are commercial and agricultural and not vintage cars as indicated in public notice
 - The proposed development cannot be considered as a hobby shed to store vintage cars. The applicant has submitted insufficient evidence of ownership of vintage cars. - Only one could be described as this.
 - it is excessive in scale and size over and above the ancillary needs of the dwelling as initially determined by the planning authority.
 - The development should be assessed as new development.
 - The EHO issues have not been satisfactorily resolved.

- Likelihood of pollution
- Not sustainable development
- More suited in an industrial area as it is not domestic development.
- Noise pollution and emissions.
- Privacy is an issue with trucks along the boundary.
- Truck damage – vibrations.
- Potential escalation of commercial activity.

6.2. Planning Authority Response

6.2.1. No comment to make on appeal.

6.3. First Party Response

- The applicant is extremely disappointed with the contents of the appeal given the level of accommodation that has been made to facilitate the neighbours
- The applicants are young couple with a young family seeking a peaceful and harmonious life. In an effort to consider neighbours the proposed shed has designed to be smaller in scale and height than what exists and also it is sited further away from the dwelling house with the intention of causing as little impact.
- The permission is clearly for new shed ancillary to the house and as hobby shed to store vintage cars and associated development works. Development contrary to this is a separate matter and can be subject to enforcement.
- The applicant has clarified that it is also for other vintage vehicles.
- Matters relating to pollution are more appropriately dealt with another forum.
- The claims of duration of the applicant's residency by the appellant are disputed by reference to the appellant's own residency elsewhere during the relevant dates as stated in other planning appeals.

7.0 **Assessment**

7.1. **Issues**

7.1.1. This appeal relates to a proposal to replace a large ancillary domestic shed with an industrial type shed which is stated to be for the storage and restoration of vintage vehicles – a hobby which remains ancillary to the dwelling. The appeal is by a residential neighbour against the decision to grant permission on the basis of the nature of the use and impact on residential amenity in addition to environmental impacts. Having reviewed the contents of the file and inspected the site I consider the substantive issues relate to:

- Nature and principle of development
- Impact on residential amenity
- Effluent treatment and pollution.
- Appropriate Assessment

7.2. **Nature and Principle of development**

7.2.1. While the replacement of a shed on a like for like basis appears to be the basis of permission by the planning authority, I consider there are issues with both the nature of the structure, the nature of the use and its intensification and the site layout that question this basis.

7.2.2. The applicant makes the case that the proposal is reduced in scale and finished with rendered walls and felt roof to assimilate with the residential character of this row of houses in an otherwise rural location. I note however that the proposed structure will be almost 2m higher than the existing shed and incorporates a 3.76m high roller shutter which I consider is industrial in nature as compared with the existing more domestic scaled 2.8m high shed with a sliding timber door and which also comprises an amalgamation of extended shed space. In terms of its visual character the proposed structure is industrial in appearance. While the lower lying eastern corridor context of the site is fairly robust in terms of visually accommodating such structures, the immediate residential environs and site characteristics of this unserviced rural area present development challenges.

7.2.3. In terms of its use there is a dispute between the appellant and the applicant regarding the occurrence of commercial activity on site. On the one hand the applicant makes the case that it is a hobby shed for the storage of vintage cars but this is later clarified as comprising a range of vehicles and engines and only one car. It is also explained that the applicant works in vehicle recovery and is also on call for his employer outside business hours yet it is further confirmed in the response to the appeal grounds that the activity on site is not commercial. The planning authority has accepted the hobby use. However, on the other hand this is disputed by the appellant on the basis of the extent and nature of commercial vehicles visiting the site and the level of activity relating to the stored and visiting vehicles on site and this is supported by photographs and statements from visitors to the appellant's property. In consideration of this case I do not consider it entirely relevant if it is commercial or not. The relevant issue is the nature and characteristics of the proposed development and the material differences from the existing shed. In this regard I consider it most relevant that it is stated that the height of the shed and entrance is needed to accommodate the storage and repair of a Volvo truck with a cabin height considerably extending over boundary and which clearly cannot be accommodated in the existing shed. The nature of the vehicles and engines to be stored are substantially industrial/agricultural. While I accept the existing shed accommodates smaller vintage vehicles I consider the provision of a significantly taller single space structure to accommodate large vehicles has characteristics of an industrial type use and constitutes a material change in the nature of development and should be assessed accordingly, I consider the development plan criteria for assessing industrial development in a rural area is appropriate in this instance. As the proposal relates to a domestic setting in a residential cluster in a rural area the provisions for domestic extensions are also relevant.

7.2.4. In terms of overall site layout, it is proposed to locate the shed into a corner to the rear of site and along the southwest boundary with the neighbour and extending across half the width of the site. This is instead of rebuilding the structure where the shed to be demolished is located to the rear of the dwelling on site. The rationale is primarily that this will allow for the turning of vehicles (presumably to the rear of the dwelling) rather than having to reverse onto the road. There are however a number of site layout issues. The site is narrow and constrained for a rural dwelling reliant on

a private well. It has frontage of c.17m and moderately widens to the rear before narrowing to a point. This has implication for amenities and services for the existing dwelling in terms private open space, water supply and effluent treatment and wastewater discharge into the future which in turn is a source of wider issues for the other neighbouring dwellings and the receiving environment.

7.3. Impact on residential amenity: noise disturbance, visual, privacy,

- 7.3.1. The proposed shed at a height of 4.67m is industrial in scale and is proposed to the side of the dwelling, and notwithstanding the use of screen planting would be visually obtrusive by itself and as compared with the existing shed at a height of 2.24m to 2.8m set back from the boundary to the rear of the dwelling. Given the scale of the shed and the height of the roller shutter designed to cater for large scaled vehicles it is likely to be source of nuisances. The potential for overlooking as clearly evident in the photographs supplied by the appellant will be further facilitated by the proposed siting which will extend vehicular access alongside the appellant's dwelling and private garden to the rear. While it is confirmed that there is no commercial activity on site and this is a hobby would it appear to generate a lot of commercial vehicles and the increased hardstanding area to the rear of the house suggests an even greater area for parking and storage of vehicles and equipment and effective industrialisation of the site along the entire boundary with appellant's dwelling. The capacity to store large vehicles is likely to generate HGV type vehicles which are a source of nuisance by reason of noise and vibration, dust and odours in addition to the potential for occasional overlooking. The servicing and repair of large engines and other elements has the potential to significantly intensify as a consequence of the development. The application does not specify noise levels or controls/limits of same nor is there any quantifiable information on nature or volume of traffic, maximum capacity of vehicles and plant machinery or exact nature of processes which makes regulation difficult in a larger facility and which is necessary for such a constrained site.
- 7.3.2. While I note the letters of support, I also note that the neighbour to the north east will benefit from improved southerly sunlight by the removal of the existing shed from the north east boundary and the other dwellings are further removed from the development site whereas the appellant is directly impacted by the proposed

development and consideration of amenities of same is the most relevant. On balance I consider the proposed development is likely to significantly increase the capacity of the site to accommodate industrial type vehicles and machinery which would contribute to an industrialisation of a confined site in close proximity to dwelling and would accordingly seriously injure the residential amenities of the neighbouring properties particularly to the south west.

7.4. Effluent treatment and pollution

- 7.4.1. As I have referred to under the heading of other technical reports, the Environmental Health Officer flagged concerns regarding the septic tank, lack of percolation area and proximity to wells and on this basis recommended that permission be refused due to site size. I consider this assessment, informed by a previous site visit by the EHO to be pertinent to an assessment of the nature of the proposal due to the potential for intensification and the site layout issues. I do not consider that these issues have been adequately addressed.
- 7.4.2. The site layout indicates the location of the septic tank serving the existing dwelling on site as being immediately adjacent to the dwelling and along the boundary where there is a watercourse which clearly breaches current standards for the siting of domestic wastewater treatment plants. In further information it is clarified in a letter but without drawings that there is a soakaway in the front garden and that the removal of the existing shed would facilitate upgrading of the septic tank. However given the site area and constraints due to: boundaries, a watercourse, existing private wells and septic tanks and intended extent of turning area for large vehicles it is difficult to see how an upgraded system could be accommodated. I consider this should be addressed in a detailed site layout informed by the necessary investigative work on soil.
- 7.4.3. While I note a general statement by Cummin Environmental Services for the applicant that the location of the soak-away should not interfere with the proposed planning of the shed at the rear of your property and that the demolition of the existing shed would assist in the upgrading of your septic tank in the future, it is not demonstrably clear that the structure is optimally sited to accommodate a feasible upgrading of the septic tank which, in view of the site size and constraints, is a

reasonable consideration in the interest of prevention of pollution of ground or surface water. Accordingly the proposed site layout may compromise capacity of the site to adequately treat effluent over the longer term. In these circumstances the proposed development would not accord with the proper planning and sustainable development of the area.

- 7.4.4. A further consideration relates to the operational use and potential for pollution. I consider a proposal of this nature requires full details of the activities proposed to be carried out, the materials and processes involved, information of plant and machinery and any emissions / wastes arising therefrom together with details of intended means of disposing of effluents and waste materials and controlling toxic or hazardous by-products. In terms of risks to a nearby watercourse and the wider environment there should at the very minimum be provision for environmental protection from possible leakages of fuel, solvents, waste products or other products associated with the storage, repair and use of numerous large vehicles.

7.5. **Appropriate Assessment**

- 7.5.1. The site is not located within any European site. The closest such site to the appeal site is the Buckronev-Brittis Dunes And Fen SAC (Site code 000729) which is located c800 metres from the appeal site at the closest point. The watercourse bounding the site also traverses the SAC before discharges to the Irish Sea at a distance greater than 2km.

- 7.5.2. The qualifying interests of the SAC are:

1210 Annual vegetation of drift lines

1220 Perennial vegetation of stony banks

1410 Mediterranean salt meadows (*Juncetalia maritimi*)

2110 Embryonic shifting dunes

2120 Shifting dunes along the shoreline with *Ammophila Arenaria* (white dunes)

2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)

2150 Atlantic decalcified fixed dunes (*Calluno-Ulicetea*)

2170 Dunes with *Salix repens* ssp. *argentina* (*Salicion arenariae*)

2190 Humid dune slacks 7230 Alkaline fens

- 7.5.3. There are a number of sources of potential contamination on the adjacent watercourse arising from the demolition and construction works and the nature of the use which involves storage of engines and fuels and accordingly there is a potential pathway into the SAC.
- 7.5.4. The nature of the qualifying interests is however such that water pollution arising from the proposed development is unlikely to have any effect on the habitats for which the SAC is designated and no significant effects on the site in light of the conservation objectives for which it is designated are therefore considered likely to arise.
- 7.5.5. Therefore, having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission for the proposed development be refused based on the following reasons and considerations, as set out below.

9.0 Reasons and Considerations

1. The proposed development by reason of its industrial nature and siting would seriously injure residential amenities of the adjacent residence by reason of visual obtrusion, noise, disturbance and loss of privacy would be contrary to the proper planning and sustainable development of the area.
2. In the absence of sufficient detail of the processes associated with the proposed shed and measures to control a risk of pollution, the Board is not satisfied that the proposed development would not result in a deterioration in the chemical or ecological status of the adjacent water course and would therefore be prejudicial to public health.

3. On the basis of the information presented with the application and appeal, and specifically the absence of a detailed specification and layout for the provision for future upgrading of on site waste water treatment system and information regarding site conditions, the Board is not satisfied that the option of upgraded on site treatment and disposal of effluent would be capable of being satisfactorily accommodated on the site and may therefore lead to a long term adverse impact on the surface and groundwater sources in the vicinity of the site. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

Suzanne Kehely

Senior Planning Inspector

29th April 2021