



An
Bord
Pleanála

Inspector's Report ABP309621-21

Development	Erection of Agricultural Storage Shed, new entrance and associated works.
Location	Port, Dunfanaghy, Letterkenny, County Donegal.
Planning Authority	Donegal County Council.
Planning Authority Reg. Ref.	2051499
Applicant	Derek Stewart.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellants	Paul and Elaine Frances Barrett.
Observers	None.
Date of Site Inspection	June 9 th 2020.
Inspector	Paul Caprani.

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1.0 Introduction

ABP309621-21 relates to a third-party appeal against the decision of Donegal County Council to grant planning permission for an agricultural storage shed and ancillary works. Concerns are expressed in the grounds of appeal that the building would be located on a prominently exposed elevated rural landscape which will significantly impact on the visual amenities of the area. Concerns are also expressed that the shed in question notwithstanding conditions attached, may be used for the housing of animals or storage of effluent.

2.0 Site Location and Description

- 2.1. The appeal site is located on the eastern side of a local third class road approximately 2.5 kilometres south of the village of Dunfanaghy in North Donegal. The site is situated in the townland of Port. The site itself is irregularly shaped and has a road frontage of approximately 150 metres. It is located to the immediate north-east of Port Lough which forms part of the wider and extensive Horn Head and Rinclevan SAC. At its closest point, the southern tip of the site is located 50 metres from the north-eastern boundary of this SAC. The site itself covers an area of 0.53 hectares. There is a dwellinghouse to the immediate north of the subject site which is under the ownership of the applicant as it is located within his landholding. Lands directly opposite the site, on the west side of the L-3272-1 accommodate a dwellinghouse and a cluster of farm buildings and outbuildings.
- 2.2. The land on which the proposed shed is to be located is extremely undulated gradually rising to the rear (east). There are numerous rock outcrops some of which are quite large on the subject site. An elevated rock face is located to the rear of the shed. An agricultural gateway provides access to the site and the roadside perimeter of the site is bounded by a post and wire fence.

3.0 Proposed Development

- 3.1. Planning permission is sought for the construction of an agricultural shed with a ridge height of 7.9 metres and a gross floor area of 180.9 square metres. The proposed shed is to be located in the southern portion of the site, set back from the public road. The base of the shed is to incorporate a smooth render finish while metal sheeting is to be applied to the upper portion of the building and to the shallow pitched roof. One large entrance is proposed on the front elevation. The shed is rectangular in shape with a width of 12.7 metres and a depth of 14.25 metres. A new access road is to be constructed at the northern end of the site adjacent to the existing access serving the approved dwelling which has recently been constructed to the north-east of the site. The proposed shed at its closest point is c.20 metres from the public road.
- 3.2. Initially it was proposed to located the vehicular entrance at the north eastern corner of the site, adjacent to the entrance to the applicants house. The entrance to the shed was relocated to the existing agricultural entrance serving the site midway along the site's western boundary.

4.0 Planning Authority's Decision

Donegal County Council issued notification to grant planning permission subject to 7 conditions.

4.1. Documents Submitted with the Planning Application

- 4.1.1. The planning application was accompanied by drawings, a completed planning application form, public notices and planning fee. A Traffic and Transport Statement was also submitted which indicates that approximately 6 heavy commercial vehicles per day will access the site. It also indicated that over a 2½ period (10 a.m. to 12.30 p.m.) a total of 12 vehicles passed along the subject road which equated to just less than 5 vehicles per hour. The average speed of the vehicles was 41 kilometres per hour with an 85 percentile speed of 46 kilometres per hour.

4.2. Planning Authority Assessment

- 4.2.1. A report from the Building Control Department of Donegal County Council requires the applicant to comply with the Building Regulations (1997 – 2014) and the applicant to submit a valid commencement notice.
- 4.2.2. The planner's report assesses the proposed development and notes that the proposal for an agricultural shed is acceptable in a rural area subject to need, suitable siting and design. However, further information is required in relation to the proposed location of the access. Further information is also required in relation to the need for the structure. In this regard the applicant is requested to substantiate his involvement in agriculture.
- 4.2.3. Donegal County Council therefore requested further information in relation to the following:
- Revised separate site entrance to the south.
 - The new access should clearly demonstrate adequate sightlines can be achieved.
 - The applicant is also requested to submit evidence of the extent of farming and agricultural activity including the location and extent of the existing agricultural landholding and the need for a shed at this specific location.

4.3. Further Information Submission

- 4.3.1. A revised site layout drawing is submitted showing a new revised entrance which is to be located midway along the site boundary, c.70 metres to the south of the originally proposed entrance. The drawings also indicates that 70 metre sightlines can be achieved in both directions.
- 4.3.2. Further information also indicates that Mr. Stewart is a sheep farmer and has a herd reference number registered with the Department of Agriculture, Food and the Marine. The applicant's family farm is based in Kildunfanaghy approximately 1.2 kilometres from the subject site where the applicant farms with his father. The intention of the agricultural storage shed is to be used for storage for implements and materials. The shed will be used for the storage of bales of hay for the feeding of sheep as well as bags of nuts and meal. The shed will also be used for the storage

of fertilizer and sheep handling equipment together with more general agricultural machinery and implements. A further planning report dated 12th February, 2021 considered the additional information to be acceptable and therefore recommended a grant of planning permission subject to 7 conditions.

5.0 Planning History

- 5.1. No planning history files are attached. The details of the planning history associated with the subject site and adjoining sites are set out in Section 7 of the planner's report.
- 5.2. Under Reg. Ref. 16/51013 planning permission was refused to the applicant for the construction of a dwellinghouse, septic tank, domestic garage and slatted cattle shed and sheep shed on the site to the immediate north of the subject site.
- 5.3. Under Reg. Ref. 17/51426 a similar application was withdrawn.
- 5.4. Under Reg. Ref. 18509/06 Donegal County Council granted planning permission for the erection of a dwellinghouse with a septic tank and domestic garage and all other associated works to the current applicant on lands to the immediate north and north-east of the subject site.
- 5.5. This application was the subject of a third-party appeal under Reg. Ref. ABP302358-18. However, the appeal was classed as invalid.

6.0 Grounds of Appeal

- 6.1. A third-party appeal was submitted by Paul and Elaine Frances Barrett. They own the nearest dwellinghouse directly opposite the site.
- 6.2. The grounds of appeal make reference to the planning history pertaining to the applicant's site and highlight that the Planning Authority in assessing previous applications on site, expresses concerns in relation to the elevated and prominent position of the site and the site's general unsuitability to cater for development of this nature.
- 6.3. It is noted that the Council have repeatedly suggested that this location is a predominantly exposed elevated rural landscape and the development does not

successfully integrate into the rural surroundings. This would cause detrimental change and further erosion to the character of this special area of conservation SAC.

- 6.4. Concerns are expressed that the shed in question will be used for the housing of animals or storage of effluent and that the building could be changed into a slatted sheep shed to house livestock should the applicant wish to do so.
- 6.5. The location of the new entrance yard and shed will be visible along the whole length of the rear of the appellants' property and is very close to the main road. This will give rise to overlooking from those working in the yard or shed area.

7.0 Appeal Responses

7.1 Applicants Response

- 7.2. A response was submitted by the applicant Derek Stewart and is summarised below.
- 7.3. The applicant was born and raised to a local farming family near the application site, and it has been his ambition to have his own working farm. He purchased 37 acres in the local townland to accommodate a new sheep farm with a registered flock number. Details of the planning history including the successful planning application for a house and garage are detailed. The applicant hopes to reside locally and run the farm. It is an essential requirement to the successful operation of the farm that an on-site shed facility is located in close proximity to the applicant's dwellinghouse for the safe and secure storage of farming equipment and winter feed. It is stated that all the concerns raised in the grounds of appeal have been adequately dealt with in the planner's report.
- 7.4. The previous shed refused planning permission was for a much larger development in excess of 680 square metres on higher lands. A series of photographs are submitted with the appeal response where it is contended that the proposal will have a negligible impact on the visual amenities of the area and demonstrates that the building will integrate into the existing landscape. Photograph No. 7 indicates that the appellants will experience no loss of private amenity to their existing holiday home.
- 7.5. The subject site is not located within a Special Area of Conservation and the application has been successfully screened for Appropriate Assessment by the

Planning Authority which have concluded that the development will have no adverse impact on the nearest habitat.

7.6. It is stated that any concerns expressed by the Enforcement Authority in relation to works which have been undertaken have been satisfactorily addressed.

7.7. Finally, it is stated that the works to be undertaken could be classed as exempted development where it not the fact that the development is located within 100 metres of a third-party house.

7.8. Planning Authorities Response

- The shed does not permit the housing of any animals.
- The separation distance between the shed and the appellants houses is generous and will not give rise to any overlooking.
- The shed will not be unduly visible for any significant distance along this road.

8.0 Observations

No observations were submitted.

9.0 Development Plan Provision

9.1. The site is governed by the policies and provisions contained in the Donegal County Development Plan. The site is not located in an area designated by a land use zoning objective. The site is located within an area designated as moderate scenic amenity in the County Development Plan 2018 – 2024 where the following policy applies.

NH-P-7 – within areas of high scenic amenity and moderate scenic amenity as identified in the scenic amenity map and subject to other plans and policies, it is the policy to facilitate development the nature, location and scale of which allows development to integrate and reflect the character and amenity designation of the landscape.

9.2. Natural Heritage Designations

At its closest point the subject site is located approximately 50 metres from Port Lough which forms part of the Horn Head and Rinclevan Special Area of Conservation (Site Code: 000147). The site synopsis for this SAC describes Port Lough as a meso/oligotrophic lake of good water quality, has a diverse flora and supports an important population of slender niad. This species is listed on Annex II of the EU Habitats Directive and is also legally protected under Flora (Protection) Order 1999.

9.3. EIA Screening Assessment

On the basis of the information on the file, which I consider adequate in order to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the construction of an agricultural shed and therefore an environmental impact assessment is not required.

10.0 Planning Assessment

10.1. I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal and the applicant's response to the grounds of appeal, I consider the critical issues in determining the current application and appeal are as follows:

- Visual Impact Arising from the Proposed Development
- Impact on Amenity through Overlooking
- Potential Impact on European Sites/Appropriate Assessment Issues
- Other Issues

10.2. Visual Impact Arising from the Proposed Development

10.2.1. The grounds of appeal make reference to the planning history associated with the applicant's efforts to construct a dwellinghouse on lands in the vicinity of the site and proposal to construct an agricultural shed under a separate planning application. While it is noted in the grounds of appeal that in the various applications submitted, the Planning Authority had raised concerns in respect of the prominent and exposed location of the subject site and the potential of the proposal to impact on the visual

amenities of the area; the Planning Authority nevertheless granted planning permission for the proposed dwellinghouse and this issue cannot be revisited for the purposes of the current application and appeal.

- 10.2.2. With regard to the Planning Authority's previous refusal for a slatted cattle shed and slatted sheep shed and silage pit under Reg. Ref. 16/51013. The applicant points out in the response to the grounds of appeal, and submits attached drawings which clearly indicate that the sheds which were refused planning permission related to three separate structures with a combined total floor area in excess of 680 metres. Furthermore, the finished floor area of these structures were between 10 and 13 metres higher than that proposed under the current application.
- 10.2.3. The current shed is relatively modest in size located on lower lands closer to the public roadway. The ridge height of the proposed shed is less than 8 metres in height. Furthermore, the shed when viewed from vantage points in the vicinity particularly vantage points to the west and north-west will appear as part of a cluster of buildings associated with the applicant's dwelling and indeed the appellants' properties on the opposite side of the road. Furthermore, the subject site is located in an area of moderate scenic amenity which is the lowest scenic amenity designation contained in the Plan (the other two designations being areas of High Scenic Amenity, and areas of especially high scenic amenity). The receiving landscape therefore is considered to be one of the more robust and less sensitive landscapes within the county in order to accommodate development.
- 10.2.4. The photographs attached to this report clearly indicated that the proposed shed will be screened/concealed behind a rock outcrop at the northern end of the site beside the roadway. The proposed shed therefore will not be visible from vantage points along the public road to the north of the site.
- 10.2.5. Finally, what is proposed in this instance is an agricultural structure in a predominantly agricultural area. It is reasonable that the applicant be permitted to provide a structure in order to house agricultural machinery within the confines of the agricultural holding. The proposed structure in my view is not excessively large or dominant in scale and constitutes a structure that is compatible with the predominant agricultural land use in the area. As the applicant points out, such a structure (subject to complying with conditions and limitations set out in the regulations) would

normally constitute exempted development under Class 9 of Part 3 of the Exempted Development Regulations – ‘Rural’. In fact, drawings submitted in Appendix A of the applicant’s response to the grounds of appeal indicates that the proposed structure is in fact 101 metres from the existing bungalow which forms part of the appellants’ property and as such complies with Condition and Limitation No. 5 of Class 9. It appears that the applicant also complies with the other conditions and limitations associated with Class 9. Thus in planning permission were not forthcoming in this instance an agricultural shed could be built on site, subject to complying with the conditions and limitations set out in Class 9 of the Exempted Development Regulations.

10.2.6. Notwithstanding the above argument, I consider the structure as proposed to be compatible with the receiving environment and due to its overall size and scale and location within the site, it would not seriously injure the visual amenities of the area as suggested in the grounds of the third party appeal.

10.3. **Impact on Amenity through Overlooking**

10.3.1. With regard to overlooking and privacy issues I refer the Board to the fact that the separation distance between the proposed shed and the appellants’ dwelling is in excess of 100 metres. Furthermore, the shed is not a habitable structure and the occupation of the shed and the surrounding yard is likely to be less frequent than that associated with any occupied dwelling. The Board will note that no windows are proposed along the north-western elevation of the shed that could give rise to overlooking. On this basis it would in my view be unreasonable to refuse planning permission on the grounds that the proposal would have an unacceptable impact on surrounding amenity. The Board will note from my site description and site inspection that there are no other structures in the vicinity of the site (other than the applicants dwelling) that could be overlooked on foot of the proposed development.

10.4. **Potential Impact on European Sites/Appropriate Assessment Issues**

10.4.1. The grounds of appeal incorrectly state that the proposed development will result in detrimental change and further erosion to the Special Area of Conservation. The site is not located within or contiguous to the Special Area of Conservation. At its closest point, the SAC is located c.50 metres to the south of the southern boundary of the site and c.100 metres from the proposed shed. The site contours map submitted with

the application together with my site inspection indicates that some excavation will be necessary in order to acquire the finished floor levels associated with the shed.

10.4.2. The qualifying interests associated with the Horn Head and Rinclaven SAC are as follows:

- *Embryonic shifting dunes.*
- *Shifting dunes along the shoreline with ammophila and arenaria.*
- *Fixed coastal dunes with herbaceous vegetation.*
- *Dunes with salix repens ssp.argentea.*
- *Humid dune slacks.*
- *Machairs.*
- *Oligotrophic to mesotrophic standing waters with associated vegetation.*
- *The geyer's whorl snail.*
- *The grey seal.*
- *The petalworth.*
- *The slender niad.*

10.4.3. The SAC in question primarily relates to the coastal and cliff areas associated with the North Donegal coast. A small area surrounding Port Lough is physically separate from the larger area associated with the coastal cliff area around Dunfanaghy Head. The site on which the proposed development is located is physically separate from and not in any hydrologically or otherwise connected to that part of the SAC that is located along the coastal headland. The proposed development is however located in close proximity to the Port Lough designated area of SAC. The site synopsis describes Port Lough area as a meso/oligotrophic lake of good water quality which has diverse flora and supports important population of slender niad. The key attributes associated with the Port Lough from a conservation perspective is a lack of nutrients available to sustain life. Any flora vegetation therefore is very sensitive to nutrient loadings which could occur as a result of pollution. The oligotrophic waters of Port Lough accommodate very low concentrations of nitrates, irons, phosphates or carbonaceous matter.

- 10.4.4. The provision of an agricultural shed housing animals or effluent without appropriate mitigation measures could potentially in my view present a significant threat to the status of these waters should any pollution episode occur in the vicinity of the site. However, a key important consideration relates to the nature of the use of the shed. It is clear from the applicant's response to the grounds of appeal that the shed is to accommodate machinery and plant and other equipment together with animal feed. It will not be a source of shelter for livestock which could give rise to largescale effluent generation which could present a threat. While the construction phase could potentially give rise to surface water run-off and increased levels of sedimentation any inorganic siltation which potentially arise from the construction of the shed would not in itself pose a threat to the qualifying interests associated with the lake.
- 10.4.5. Furthermore, the Board will note from the drawings submitted which can be verified from my site inspection that streams and ditches in the vicinity and along the boundary of the site which would act as collection points for any potential run-off associated with construction activities would carry any potential pollutant matter in a north-easterly direction along the roadway and therefore away from Port Lough. Therefore, it appears from the evidence accrued from my site inspection that the subject site, notwithstanding the fact that it is located in close proximity to the SAC is in fact located in a different sub-catchment area from the SAC and as such is not directly connected with the SAC in terms of hydrological links. On this basis I would agree with the Planning Authority that an appropriate assessment could be screened out and a Stage 2 Appropriate Assessment is not necessary or warranted on the basis that the proposed development would not present a threat to the qualifying interests associated with the SAC.
- 10.4.6. I would however finally conclude that if the Board are minded to grant planning permission for the proposed development it should, like the Planning Authority, include a condition requiring that the shed in question shall not be used for the housing of livestock or for the storage of effluent. The applicant, on the basis of the information contained in the response to the grounds of appeal, would be satisfied with such a condition having regard to the stated objective to store agricultural machinery plant and animal feed in the shed.

10.5. Other Issues

Concerns are expressed that the storage shed permitted by the Planning Authority could be used for the housing of livestock and effluent. The Board will be aware that Condition No. 7 of the Planning Authority's issue of notification to grant planning permission specifically prohibited the use of the agricultural storage shed for the housing of animals or storage of effluent, therefore any use of the building for such storage provision would constitute unauthorised development and would be the subject of enforcement proceedings. I recommend that a similar condition be attached should the Board be minded to uphold the decision of the planning authority.

11.0 Conclusion and Recommendation

Arising from my assessment above therefore, I recommend that An Bord Pleanála uphold the decision of Donegal County Council and grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

12.0 Reasons and Considerations

Having regard to the predominantly rural nature of the surrounding environment and the site's location in an area designated as being of moderate scenic amenity, it is considered that the proposed agricultural shed, subject to conditions set out below would not seriously injure the visual or residential amenities of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 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 to the planning authority on the 28th day of January 2021, 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. Water supply and drainage arrangements including the attenuation of any surface water and measures to ensure that no water discharges from the site onto the public road shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: To prevent flooding.

3. Prior to the commencement of development permanent visibility splays of 70 metres shall be provided in each direction to the nearside road edge at a point 2.4 metres back from the road edge at the location of the vehicular entrance. All vision splays shall be calculated as per the technical standards set out in Appendix 3 of Part B of the County Donegal Development Plan.

Reason: In the interest of traffic safety.

4. Details of the proposed entrance serving the agricultural shed shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development and traffic safety.

5. The finished floor level of the shed shall be 83.65 metres above Ordnance Datum as indicated in the drawings submitted to the planning authority.

Reason: To preserve the visual amenities of the area.

6. Areas in the vicinity of the proposed agricultural shed shall be graded with topsoil and seeded with grass. Details of these areas shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: To preserve the amenities of the area.

7. The shed shall be used for the purposes of storage associated with machinery, other agricultural equipment and plant and for animal feed. The building under no circumstances shall be used for the housing of animals or the storage of effluent.

Reason: To preserve the amenities of the area and to preserve the oligotrophic /mesotrophic status of Port Lough.

Paul Caprani,
Senior Planning Inspector.

16th June, 2021.