



An
Bord
Pleanála

Inspector's Report

ABP-309818-21

Development	Retention and completion of shed and improvements to entrance
Location	Ballyhagan, Carbury, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	20/1441
Applicant(s)	James Mullally
Type of Application	Permission for Retention and Permission
Planning Authority Decision	Grant Permission for Retention and Permission
Type of Appeal	Third Party v Grant of Permission for Retention and Permission
Appellant(s)	Rhonda Mulroy
Observer(s)	None
Date of Site Inspection	13.07.2021
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located on a local road approx. 2.5km west of Derrinturn in north west Co. Kildare.
- 1.2. The local road is straight at this location and there is extensive one-off rural housing along both sides of the road in the vicinity. There is a verge and hedgerow either side of the existing agricultural gated entrance. There is a derelict single-storey structure inside the access perpendicular to the road. Some concrete foundations and the steel framework of an agricultural shed are positioned immediately to the rear/south of the derelict structure. There are some trees on site and there were also some cattle on site on inspection.
- 1.3. The site has an area of 0.306 hectares.

2.0 Proposed Development

- 2.1. Permission is sought to retain and complete a partially constructed agricultural shed and permission to improve the existing vehicular entrance.
- 2.2. The shed has a floor area of 259sqm with a maximum height of approx. 7 metres. It is to be externally finished in cladding with some concrete walls.
- 2.3. Further information was sought by the planning authority. In response, the applicant submitted entrance improvement detail and a letter setting out a response to the issues raised in the third party observation.

3.0 Planning Authority Decision

3.1. Decision

Permission for retention and permission was granted by Kildare County Council subject to 11 no. conditions including use of the development for agricultural purposes only, surface water disposal, construction hours and construction practices, sightlines, collection, storage, and disposal of wastes generated and development contributions.

3.2. **Planning Authority Reports**

3.2.1. Two Planning Reports form the basis of the planning authority's decision. The second report considered the further information request had been sufficiently addressed, the development was acceptable having regard to the rural location within an existing farmyard, and it accorded with the provisions of the Kildare County Development Plan 2017-2023.

3.2.2. **Other Technical Reports**

Area Engineer – No objection subject to conditions.

Environment Section – No objection subject to conditions. This report was not received by the Board.

Water Services – Condition recommended.

Transportation Section – An initial report stated additional information was required in relation to detail of traffic movements and detail of the entrance. No updated report was received in relation to the further information response.

3.3. **Prescribed Bodies**

Irish Water – No objection. Observations made.

3.4. **Third Party Observations**

An observation was received from Rhonda Mulroy who lives adjacent to the west of the site. The main points made can be summarised as follows:

- The applicant does not live on this land.
- The development is an eyesore.
- Concern about odour and noise. These will not affect the applicant.
- Photographs are attached to the observation.

4.0 Planning History

- 4.1. There has been no previous recent valid planning application on site.
- 4.2. P.A. Reg. Ref. UD7482 relates to an enforcement file associated with the site.

5.0 Policy Context

5.1. Kildare County Development Plan 2017-2023

Agricultural development is contained in Chapter 10 (Rural Development).

5.2. Natural Heritage Designations

The closest Natura 2000 site is The Long Derries, Edenderry SAC (Site Code 000925) approx. 2.5km to the south west. The closest heritage area is Grand Canal pNHA (Site Code 002104) approx. 650 metres to the south.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by Rhonda Mulroy, Ballyhagan, Carbury who lives in the property adjacent to the west of the site. The main points made can be summarised as follows:

- There is already a fully working farm facing the appellant and the permission for another one will box in the appellant's property with full time farming.
- A planning application was refused on this site in 2003 but the applicant's children got permission to build their homes, and all have access to the landholding. A side gate from the applicant's son's house to the site would become a very large working farm very quickly.

- The appellant outlines health issues in the family whereby change such as smell and noise can have impacts.
- Photographs have been submitted with the grounds of appeal including of land registry detail.

6.2. Applicant's Response

The main points made can be summarised as follows:

- Selected sections of the Kildare County Development Plan 2017-2023 which support the proposed development are set out.
- Condition 2 of the grant of permission restricts the use of the development to agricultural purposes.
- The applicant inherited the farm from his mother and the family have been farming this land for generations. There is an urgent need for the shed to store hay and farm implements.

6.3. Planning Authority Response

The main points made can be summarised as follows:

- Due regard was given to the Kildare County Development Plan 2017-2023, the planning history of the site, internal reports, reports of the prescribed bodies and the proper planning and sustainable development of the area.
- Having reviewed the grounds of appeal the planning authority has no further comment or observation to make. The Council requests the Board to uphold the decision.

6.4. Observations

None.

6.5. Further Responses

None sought.

7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Reports and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Compliance with the Kildare County Development Plan 2017-2023
- Development Location & Design
- Impact on Adjacent Amenity
- Traffic & Sightlines
- Appropriate Assessment

7.1. Compliance with the Kildare County Development Plan 2017-2023

- 7.1.1. The appellant has concerns about the potential for the increase and intensification of farming activity in the vicinity of her property.
- 7.1.2. In the application received by the planning authority the applicant stated that the columns for the main shed have been in place for twenty five years and the columns for the lean-to were erected in 2019. The shed is to be used for the storage of hay, straw, and farm machinery. The applicant's response to the grounds of appeal reiterated the requirement for the use of the shed to store hay and farm implements. On inspection it was noted that there were cattle on site. Apart from the derelict structure immediately adjacent to the partially constructed shed there is no farmyard, contrary to the conclusion of the planning authority's second Planning Report. The location of the farmyard associated with the landholding has not been indicated.
- 7.1.3. As set out in Section 2.2 (Strategy) of the Plan, the Plan seeks to encourage the focus of new development on, inter alia, 'Recognising the role of the rural countryside in supporting the rural economy and its role as a key resource for agriculture, equine, bloodstock ...' Chapter 10 of the Plan relates to rural development. Policy RLE 8 states that where an area is not within an identifiable settlement, or otherwise zoned, 'the use of such land shall be deemed to be primarily agricultural'. Agricultural policies are set out in Section 10.5.2. Policy AG 1 states it is policy to support agricultural development

and encourage the continuation of agriculture as a contributory means of maintaining population in the rural area. In general, the Plan supports agricultural development.

- 7.1.4. Notwithstanding the extent of rural housing in the general vicinity, this is a rural area. Therefore agricultural development is to be expected and supported where appropriate. The construction of an agricultural shed is a reasonable development in a rural area. The submitted Site Layout shows that houses to the east of the site are occupied by members of the applicant's family. The proposed structure is approx. 38 metres from the western site boundary where the appellant lives.
- 7.1.5. Having regard to the foregoing, the proposed development is located within the applicant's landholding close to family members and an existing agricultural access is utilised. I consider the proposed development is consistent with the provisions of the County Development Plan 2017-2023 in terms of agricultural development in a rural area and the principle of development is therefore acceptable, subject to the detailed considerations below.

7.2. Development Location & Design

- 7.2.1. In the observation received by the planning authority the appellant raised concern about the visual impact of the structure, though this was not included in the grounds of appeal.
- 7.2.2. The subject structure is located immediately to the rear of a derelict structure and accessed via an existing vehicular access. There is no existing farmyard in place i.e. there are no other structures that appear to be currently in agricultural use. The structure is relatively substantial in size, with a floor area of 259sqm and a maximum height of approx. 7 metres. On completion, the structure will be consistent with agricultural structures throughout the country. It will be finished in cladding with concrete walls to two sides. While it will likely be visible, the existing roadside hedgerow will reduce its visual impact. The design reflects the cited uses, and such structures are a common sight throughout rural Ireland.
- 7.2.3. I do not consider that there is any issue with the location or design of the agricultural shed.

7.3. Impact on Adjacent Amenity

- 7.3.1. The grounds of appeal include some potential medical issues with certain family members in relation to noise and odour nuisance from the proposed development.
- 7.3.2. As noted previously, this is a rural area and therefore agricultural development is acceptable in principle in such locations. The proposed structure is effectively equidistant between the appellant's property boundary and the applicant's son's property boundary. The intended uses set out by the applicant, i.e. storage of hay, straw and farm machinery would not generate odour, though noise could be a concern at times. While I note the appellant's concern, the fact remains that this is a rural area and therefore reasonable rural activity, such as agriculture, should be generally permitted. Certain odour and noise nuisance are an inevitable consequence of living in rural areas. I do not consider it reasonable to refuse the application on this basis.
- 7.3.3. An appropriate condition in relation to land spreading could be included should the structure be used for housing cattle, as allowed for in Condition 2 of the planning authority's decision, a condition I consider to be reasonable.
- 7.3.4. Having regard to the rural nature of the area and the acceptability of agricultural development in such areas, I consider that the agricultural use proposed is reasonable in a rural environment. While there may be additional nuisance to third parties, such as odour and noise, it is consistent with agricultural development in a rural area.

7.4. Traffic & Sightlines

- 7.4.1. The application also proposes improvements to the existing vehicular access.
- 7.4.2. The local road is straight at this location and the site has an existing agricultural gate. There is a verge and hedgerow along the roadside either side of the access. There is a gravel track leading into the site to a gravel surfaced area east of the proposed structure.
- 7.4.3. The Site Layout showed sightlines of 140 metres to both sides of the access point. A report from the Area Engineer indicated no objection subject to conditions, including a condition that the roadside hedge shall be maintained so as to not impede sightlines. A report from the Transportation Section requesting further information appears to have been received after the first Planning Report was prepared. Notwithstanding, the

further information request sought detail of proposed improvements. The drawing submitted in response shows a 3.6 metres wide entrance set back 5.7 metres from the roadside edge with 1.5 metres high timber fence wings. The planning authority indicated no concern with the applicant's response in this regard.

- 7.4.4. Having regard to the straight nature of the local road at this location, the established vehicular access, and the unobtrusive nature of the proposed improvements I consider the alterations to the existing access point are acceptable.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the agricultural development subject of the planning application and to the nature of the receiving environment, remote from and with no hydrological or ecological pathway to any European 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 planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to the provisions of the Kildare County Development Plan 2017-2023, and to the nature and scale of the development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the rural environment of the site, would not seriously injure the residential amenities of properties in the vicinity and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 10th day of February 2021, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The development shall be used for agricultural purposes only and shall not be used for human habitation or any commercial purpose other than a purpose incidental to farming.

Reason: In the interest of orderly development and the amenities of the area.

3. All uncontaminated roof water from the building 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 order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

4. Any slurry/waste generated by the development shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. The location, rate, and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2017, as amended.

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

5. All oxidisable and galvanised surfaces of the proposed structure shall be painted a dark green matt colour, unless otherwise agreed in writing with the planning authority prior to commencement of development, and the surface shall be maintained in a painted condition at all times.

Reason: In the interests of visual amenity and orderly development.

6. The applicant shall enter into a water connection agreement with Irish Water, prior to commencement of development, if required.

Reason: In the interest of public health.

7. 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.

Anthony Kelly

Planning Inspector

23.07.2021