



An  
Bord  
Pleanála

## Inspector's Report ABP-309930-21

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<b>Development</b>	Retain car repair shed for personal use.
<b>Location</b>	Kilronane East, Dunmanway, Co. Cork.
<b>Planning Authority</b>	Cork County Council.
<b>Planning Authority Reg. Ref.</b>	20/00525.
<b>Applicant</b>	John Helen.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Shane and Melissa Kingston.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	12 June 2021.
<b>Inspector</b>	Mairead Kenny.

## 1.0 Site Location and Description

- 1.1. The site is located in a rural area adjacent the R599. The appeal relates to a large shed which is situated in the grounds of a farm complex. The shed is one of a number of buildings to the rear of the applicant's dwellinghouses.
- 1.2. The shed is accessed by way of a private laneway to the side of the dwellinghouse. There is a large entrance junction and ample parking adjacent the R599 at the junction with the private laneway.
- 1.3. There are a number of private dwellinghouses in close proximity to the site. The nearest house is the Helen family home to the north of the shed.
- 1.4. The subject building is 6 m high, over 17 m long and over 8 m wide. The gross floor area is therefore approximately 142 m<sup>2</sup>. This structure is fitted with a metal roof and has rendered walls. The interior of the shed is divided into two rooms both of which are fitted with roller shutters.
- 1.5. The subject shed is attached to another shed which it is stated was reconstructed after a fire. That building in itself is adjacent an open barn structure.

## 2.0 Proposed Development

- 2.1. Permission is sought to retain the car repair shed for personal use.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission subject to conditions summarised below:

- use of the shed for domestic storage and to repair farm machinery, ancillary equipment and vehicles belonging to the applicant only
- waste management requirements
- noise emission requirements.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

3.2.2. The final planner's report dated 15 March 2021 includes the following comments:

- the permission sought is to retain the car repair shed for personal use
- the application was made following an enforcement complaint in relation to alleged unauthorised use as a commercial garage
- the proposed structure is visually integrated within the existing farm buildings and there is no objection to the siting, height, scale or design of the domestic shed proposed to be retained
- the shed is being used by the applicant, his son and his grandson for their own personal use which includes carpentry work and repair of their own cars or farm machinery/associated equipment.

3.2.3. In the original report it was noted:

- it was not possible at the time to access the entire building, but the environment officer's report is noted
- the planning authority has serious concerns about the possibility of a paint spraying facility being operated at this site which would typically be associated with commercial garages and requires a special certificate.
- a commercial repair garage may be operating
- further information is recommended.

### 3.2.4. Other Technical Reports

3.2.5. Environment - the final report dated 12 March 2021 notes that clarification and details were requested regarding the use and the provision of vehicle spray paint facilities, storage of paints, potential noise issues, air extraction and waste management. No objection to a grant of permission subject to conditions relating to waste management and noise.

3.2.6. In the original report it was noted that the shed appears to be divided into two parts one of which is a vehicle repair facility and the other a vehicle paint spraying facility.

The operation of a vehicle spraying facility requires a certificate issued by the local authority. The applicant should be requested to provide further information relating to installation of any special booth/equipment in the vehicle spray-painting facility and other information relating to this facility and the noise, waste management and wastewater impacts.

- 3.2.7. Area Engineer - the layout and use appear to be for a commercial business which is unacceptable, and permission should be refused. There is adequate room for limited car parking and turning within the site. An internal garden wall between the house and the existing shed has been raised.

### **3.3. Prescribed Bodies**

- 3.3.1. No submissions.

### **3.4. Third Party Observations**

- 3.4.1. 2 no. third party submissions were received by the planning authority.
- 3.4.2. Both relate to the stated operation of a car repair business by the applicant's grandson, the noise and traffic nuisance, fumes from spray-painting and noise from industrial fans and from modified cars departing the shed.
- 3.4.3. The hours of operation are also referenced - the applicant's grandson is present almost every evening between 1830 and 2200 and as early as 0545 and on Sundays and public holidays.
- 3.4.4. The applicant's grandson is stated to have been operating in a section of an old shed to the south of the new shed for a couple of years.

## **4.0 Planning History**

No recent relevant planning history.

## 5.0 Policy Context

### 5.1. Development Plan

The site is located in the designated greenbelt surrounding Dunmanway. Under RC1 it is an objective to retain the identity of towns and prevent sprawl and to reserve generally for use as agricultural, open space or recreation those lands that lie within the immediate area of individual towns.

There are no special scenic amenity policies relevant to the area.

### 5.2. Natural Heritage Designations

The nearby Bandon River SAC is the nearest European site and is under 1km to the north.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main points of the appeal are summarised below:

- There would be no objection to repair shed for personal use, but the evidence is that it is used as a business for the applicant's grandson (car repair) and son (carpenter/cabinetmaker).
- The applicant's grandson is a trainee vehicle body repair technician and is present every weekday evening and most weekends. The majority of works are on older modified cars with turbos and without silencers.
- Our dwelling house is 70m from the shed across the R599. We tolerate excessive noise and fumes from this development.
- Noise is a big issue due to the use of pneumatic tools, hydraulic power tools, hammering, compressors, industrial fans and cars idling and revving. These activities take place in the evenings and at weekends in a rural residential area and disturb the quiet enjoyment which previously existed.

- The sealed roller doors are not always closed when the shed is in use. Even when closed they do not contain sufficient noise and fumes. Work has commenced as early as 5:45 AM and finished as late as 11:30 PM.
- The entrance to the shed is dangerous including by reason of the undertaking of wheelspin take-offs on the unsurfaced gravel road by people visiting the site.
- Throughout the lockdown contractors have been undertaking significant renovations on another rundown old shed. This may be related to the car business.

## 6.2. Applicant Response

The applicant's response comments include

- The shed is used for our own personal use.
- As a retired farmer my land is leased but I continue to maintain fences, water troughs and undertake jobs as agreed with my tenants.
- My grandson assists in this when he visits, and he also works on his own cars in the shed as a hobby – any required paintwork is undertaken off site.
- My grandson is a car enthusiast and has been involved in vintage and classic car shows as fundraisers for local charities.
- Any vehicles on the site are in family ownership.
- The shed has been used by my son for necessary timber works associated with ongoing construction of his house and for the construction of play equipment for the local school on a voluntary basis.
- My grandson and my son are both in full-time employment.
- Family members regularly visit our house for personal reasons.
- The shed is not an industrial unit.
- There is use of a shed as a gym by my son in law who competes in badminton at a national level.

- Our home, farmyard and the shed all share the same entrance and sightlines are adequate.
- Enclosed submission in support of the full-time employment of Gary Helen in a premises in Glanmire.
- Enclosed submission by an elected representative who is also a neighbour who states that she has not been impacted negatively by noise levels.
- Works were done to the older shed after a fire.

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

No response.

### 6.4. **Observations**

None received.

### 6.5. **Further Responses**

None.

## 7.0 **Assessment**

7.1. I propose to assess the merits of this case under the following headings:

- proposed use
- visual and other amenity considerations
- other issues.

### 7.2. **Proposed use**

7.2.1. The applicant's submissions set out a range of uses of the subject buildings. The appeal relates to the main shed of 141 m<sup>2</sup>. In the description of uses the appeal does not specify precisely which structures are used for particular purposes. The uses of the shed(s) as reported by the applicant in the response to the appeal are:

- use by Mr Helen in the repair and manufacture of farm related metal work - these would be related to maintenance of his farmland, which is presently leased
- use by a son in the manufacturing of carpentry and furniture associated with his own house, which is under construction
- used by a son-in-law as a gym
- use by a grandson in car repair.

7.2.2. I consider it reasonable that in the context of the family home where there is large amount of vacant land and/structures, a range of ancillary/recreational uses by family members could be accommodated. I note the appellant has no objection per se to use of the shed as a car repair activity provided it is a non-commercial endeavour.

7.2.3. At the time of inspection, I noted that the entirety of the 141 m<sup>2</sup> shed was in car repair use and I saw no evidence of any other use of this area. There was one car under repair in the main room and in the subsidiary room, previously identified as a car spraying area by officials of the Environment Section, another car was parked. In addition, the adjacent reconstructed shed contained car repair equipment and one vehicle was stored.

7.2.4. The applicant does not dispute that his grandson undertakes car bodywork at the premises but it is stated that this is on a non-commercial basis and that all of the cars are his own. Part of the submission documents include a letter to testify that the applicant's grandson is in full-time employment elsewhere.

7.2.5. I consider that it is difficult to draw the line between a commercial enterprise and a hobby by a car enthusiast utilising space at his grandfather's land. It does appear to me that the level of the car repair activity being undertaken is significant and would have the appearance of being of sufficient scale to comprise a commercial activity. Certainly, in the context of the available external parking and the scale of the interior space devoted to car related activity, there is ample room at this facility to engage in a commercial activity.

7.2.6. It is necessary that any permission granted be clear and be capable of enforcement and it is necessary that clarity be provided in relation to the nature of the activity which would be considered acceptable in this rural area in the green belt. The



decision of the planning authority addresses only the 141 m<sup>2</sup> shed. The from inspection I have noted that the car repair activity extends beyond that area.

- 7.2.7. I consider that the appropriate option for the Board is to grant permission but to impose stricter conditions than attached in the decision of the planning authority. I have made a recommendation below specifying that no more than one car in the applicant family ownership be under repair at a time, that the area devoted to car repair be restricted (at most) to the larger room in the recently constructed shed and that no paint spraying be undertaken. I also consider that the use of the shed for hobby purposes can take place between the hours of 0800 and 2200 every day.
- 7.2.8. The use of the smaller room in the large shed to be retained should be restricted in accordance with the conditions set out in the decision of the planning authority. That condition should also apply to the other buildings within the site boundary.

### 7.3. **Other issues.**

- 7.3.1. I agree with the comments of the planning authority in relation to the scale and design of the subject building. The development is acceptable in terms of its design.
- 7.3.2. There is no requirement for wastewater facilities to serve the proposed development in view of the proximity of the dwelling house and no proposals have been made in this regard. I consider that this is acceptable.
- 7.3.3. The decision of the planning authority addressed noise levels. By regulating the use as proposed I do not consider that this is necessary in relation to the car repair activity.
- 7.3.4. The requirement of the planning authority relating to waste management is appropriate.
- 7.3.5. Regarding the stated noise and traffic generated in connection with the proposed development, I note the very generous lay-bye area adjacent the regional road at the junction of the private lane and the regional road. I consider that it is likely that passing motorists would utilise this area from time to time and stop to make a phone call and for other purposes. This may account for some of the traffic manoeuvres which the appellant has referenced. I consider that subject to the limitation on the use of the car repair activity, no significant traffic should be generated.

7.3.6. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the likely emissions arising from the proposed development, the distance to the nearest European sites and the lack of hydrological collectivity, I am satisfied that 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

8.1. I recommend that permission be granted further reasons and considerations and subject to the conditions below.

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development and the pattern of development in the area, it is considered, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. Therefore, the proposed development would be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 on the 17<sup>th</sup> day of February 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. The use of the shed shall be related to use for domestic and farm-related storage purposes and the repair of farm machinery and for limited car repair in accordance with condition 2 below.

**Reason:** To ensure that the use of the building provides for activities appropriate to a rural area.

3. The following shall apply in relation to any car repair activity:
  - (a) the use shall be strictly limited to the repair of one vehicle in the ownership of the applicant or other family members
  - (b) the use shall not be commercial or for profit
  - (c) no vehicle other than the single vehicle under repair shall be stored at the site
  - (d) car repair activity and all associated storage of materials and tools shall be confined to the larger room in the shed and shall not take place elsewhere within the application site or on the farm holding
  - (e) no car paint spraying shall take place
  - (f) there shall be no car repair activity undertaken outside of the hours of 0800 and 22 00 Monday to Sunday inclusive.

**Reason:** To provide for a limited non-commercial recreational activity carried out by a family member.

4. Within three months of the date of this decision the applicant shall submit for the written agreement of the planning authority a plan for the separation and suitable storage and disposal of all wastes.

**Reason:** To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and the prevention of pollution.

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Mairead Kenny  
Senior Planning Inspector

14 June 2021