



An
Bord
Pleanála

Inspector's Report

ABP-312393-22

Development	Extension to an existing agricultural store
Location	Ballough, Lusk, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0549
Applicant(s)	Alan Hartford
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	David Llewellyn David Mulcahy
Observer(s)	None
Date of Site Inspection	25 th May 2022
Inspector	Ian Boyle

1.0 Site Location and Description

- 1.1. The subject site is within a rural area in Ballough, Lusk, in north County Dublin. It is approximately 3km from Lusk town centre, which is to the southeast, and 10km from Skerries, which is to the northeast. The M1 Motorway lies directly west and is accessible from the M1 Business Park, which is roughly 3.5km to the north.
- 1.2. The site is occupied by Drummonds Feed, Seeds and Grain Merchants. It is part of a large property, owned by the Applicant, and accommodates 2 no. large sheds near the centre of the site, together with a series of smaller sheds and outbuildings, which are mainly situated within the western section of the property. There is a large area of hardstanding which accommodates the buildings, storage containers, and various other infrastructure.
- 1.3. There is an existing vehicular access leading from the public road northwest of the site, which is the L1155 (Quickpenny Lane), which in turn links to the R132 a short distance south. The R132 generally runs in a northwest to southeast direction along this stretch. A small stream flows west of the site on the far side of R132.
- 1.4. The surrounding, predominant land use is agriculture. There are also residential dwellings in the area, including on Quickpenny Lane and elsewhere in the vicinity, and various storage and distribution companies, including a food outlet and farm and garden suppliers.
- 1.5. The site has a stated area of approximately 1.3ha.

2.0 Proposed Development

- 2.1. The proposed development comprises an extension to an existing agricultural store, stormwater attenuation facility and ancillary site works.
 - 2.1.1. The extension would be approximately 1,373sqm and situated east of the existing main shed building that is currently onsite. It would have an overall height of roughly 11.6m, length of 54m and width of 24m.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a notification of decision to grant permission for the proposed development on 7th December 2021, subject to 9 no. conditions. The conditions were mainly standard in nature.

Condition No. 3 requires the proposed extension to be offset from the eastern boundary by a minimum of 2m.

Condition No. 4 requires the extension to be used solely for agricultural purposes and not for any commercial use.

3.2. Planning Authority Reports

3.2.1. Planning Report

- The proposed development is to provide additional storage capacity for the Applicant's existing and expanding horticulture business. It is in accordance with the zoning objective for the site, which is 'RU – Rural'.
- If permission is granted, it is recommended that a condition be attached requiring the proposed shed to be used only for storage associated with the agricultural / horticultural activity that is onsite.
- The proposal is not considered visually discordant and would not have any undue impacts on the visual amenity of the area. This is due to its location off a public road, within an existing yard / complex, which accommodates other buildings of similar design and scale. The location of the proposed development, which is at the rear (east) of the site, is acceptable.
- The proposed development should be offset by a minimum of 2m from its eastern boundary rather than 0.5m as proposed. This could be addressed under condition.
- Issues relating to access and traffic are acceptable and there are adequate sightlines in each direction at the site entrance / exit.

- The proposed onsite attenuation system with a regulated flow control device is considered appropriate.

3.2.2. Other Technical Reports

Transportation Section: No objection, subject to standard conditions.

Water Services Section: No objection, subject to standard conditions, including that no surface water / rainwater is to discharge into the foul water system.

3.3. Prescribed Bodies

Irish Water: No objection, subject to standard conditions.

3.4. Third Party Observations

Two third party observations were received by the Planning Authority from residents in the area.

The main issues can be summarised as follows:

- There are drawing inaccuracies, including that an existing shed does not have planning permission, the proposed attenuation layout drawing does not include the proposed shed extension structure, various missing details regarding boundary and hardstand area details, and inaccuracies regarding the red line and blue line boundaries.
- Negative visual impact on the surrounding landscape due to excessive height.
- Residential amenity impacts will arise due to noise caused by the agribusiness.
- Various compliance issues and breach of conditions on previous permissions.
- Applicant's ownership of the site is in question.

4.0 Planning History

Subject Site

Reg. Ref. F08A/0193: In May 2008, the Planning Authority granted permission for an extension to the rear of the existing agricultural sheds in the east part of the site. However, the permission was not implemented.

[The current proposal is seeking permission for a very similar form of development (i.e. shed extension) in roughly the same location as that permitted under Reg. Ref. F08A/0193.]

Reg. Ref. F05A/1758: In May 2006, the Planning Authority granted permission for an extension to the rear of the existing agricultural shed.

[This shed has been constructed and is present on site.]

Reg. Ref. F01A/0641: The Planning Authority granted permission for an agricultural shed in July 2001.

5.0 Policy Context

5.1. Fingal County Development Plan 2017-2023

Zoning

The site is zoned 'RU – Rural' under the Fingal County Development Plan 2017-2023, which has the following objective:

'Protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage.'

The following vision also applies:

'Protect and promote the value of the rural area of the County. This rural value is based on:

- *Agricultural and rural economic resources*
- *Visual remoteness from significant and distinctive urban influences*
- *A high level of natural features*

Agriculture and rural related resources will be employed for the benefit of the local and wider population. Building upon the rural value will require a balanced approach involving the protection and promotion of rural biodiversity, promotion of the integrity of the landscape, and enhancement of the built and cultural heritage.'

The Development Plan states that 'Agricultural Buildings' are defined as 'use of a building(s) for the purposes of horticulture and agriculture including for the purposes of housing livestock, dairy farming, training of horses, growing of produce, storage and other uses directly related to primary food production and the rearing or breeding of livestock'.

The RU zoning states that Agricultural Buildings are permitted in principle and includes buildings that provide for the preparation of produce sourced from the site/farm.

The Development Plan states that Agribusiness is defined as a business that is directly related to the agricultural or horticultural sector involving the processing of produce of which a significant portion is sourced locally. It may also include support services for the agriculture or horticulture sector.

The RU zoning states that Agribusiness is not permitted.

Chapter 5 'Rural Fingal'

Agribusiness

The Development Plan refers to 'Agribusiness' as a business which is directly related to the agricultural or horticultural sectors, involving the processing of produce of which a significant portion is sourced locally. The creation of value-added products is an important aspect of agribusiness which can complement locally sourced produce and increase competitiveness and innovation. The designation can also cover support services for agriculture and horticulture.

Objective RF82

Support and facilitate the growth of agribusiness in Fingal and encourage agribusiness and support services which are directly related to the local horticultural or agricultural sectors in RB zoned areas.

Objective RF83

Require that any proposal to locate an agribusiness within the rural area is supported by a comprehensive traffic impact study of the vehicular, including HGV, traffic generated by such an enterprise.

Objective RF84

Direct and encourage agribusiness which relies primarily on imported food and produce into areas which have adequate road infrastructure and which are appropriately zoned.

Landscape Character

The site is within an area defined as 'Low Lying Agricultural' as per the mapping under 'Green Infrastructure 1, Sheet No. 14'. The Development Plan states that this is an area characterised by a mix of pasture and arable farming on low lying land with few protected views or prospects. The Low Lying Character Type has an open character combined with large field patterns, few tree belts and low roadside hedges. The main settlements located within the area include Oldtown, Ballyboghil and Lusk and parts of Malahide and Donabate. Dublin Airport is located in this area. This low lying area is dominated by agriculture and a number of settlements. The area is categorised as having a modest value.

Preserve Views

There is a 'Preserve Views' objective along a section of the R132 to the south of the site.

Section 11.5 Non-Conforming Uses

Objective Z05

Generally, permit reasonable intensification of, extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria.

5.2. Natural Heritage Designations

There are no designated sites in the vicinity of the site.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows:

- The site is zoned 'RU – Rural'.

- There is unauthorised development on the site (shed extension) and unresolved enforcement proceedings.
- There is an ongoing issue regarding illegal dumping at the site.
- The original objections to the Planning Authority were not properly considered.
- The Applicant has insufficient legal interest to make the application and has not submitted the required letter of consent from the relevant landowner.
- The proposed sheds are being used as a grain store complete with grain dryers and related infrastructure which make a considerable noise during harvesting time. This is classified as an Agri-business and is not permitted under the RU – Rural zoning applying to the site.
- The Applicant has not provided any contrary evidence showing that the proposed development would be used for the purposes of horticulture (i.e. storage of lettuces).
- The property is occupied by an existing seeds and grain merchants and there is various information, including online, that shows the site is used as an Agri-business. Granting permission for the proposed shed / extension would compound and intensify this unauthorised use.
- The Applicant has not provided any documentary evidence to demonstrate the existing store is being used for agricultural purposes.

6.2. Applicant Response

The Applicant lodged an Appeal Response on the 2nd February 2022, which includes the following main points:

- The Planning Authority considered all issues raised in the objections received and has taken these into full consideration in their assessment of the proposal.
- Any issues concerning unauthorised development should be appropriately investigated through the appropriate process (i.e. enforcement).
- The Planning Authority does not consider that that proposed development would be a discordant feature on the landscape and considers the visual amenity of the area would not be unduly impacted by the proposal. If the

Appellants are not satisfied with this determination, they should be obliged to obtain and provide an assessment from a suitably qualified person demonstrating otherwise.

- The lands within the application boundary are under the ownership of the Applicant's mother (Mrs. Bernadette Hartford). A signed letter of consent is provided.
- The proposed extension is to accommodate an increased storage area to store farm produce from the family farm. Given the minor scale and intended use of the extension, it is considered that the proposal is in accordance with the provisions of the Fingal County Development Plan 2017 – 2023.

6.3. Planning Authority Response

- Having assessed the appeal submissions, and having regard to the Planner's Report, it remains the opinion of the Planning Authority that the proposed development should be granted permission.
- The proposal for an extension to an existing agricultural store would not unduly impact on the visual amenity of the area.
- The Appellant's comments relating to site ownership are acknowledged. However, a note was included stating that under the provisions of Section 34(13) of the Planning and Development Act, 2000, a person shall not be entitled solely by reason of a permission to carry out any development.
- The issues raised relating to non-compliance with conditions of previous permissions have been brought to the attention of the Enforcement Section.

7.0 Assessment

The main planning considerations relevant to this appeal case are:

- Unauthorised Use / Zoning
- Visual Impact and Residential Amenity
- Other Issues

- Appropriate Assessment

7.1. Unauthorised Use / Zoning

- 7.4.1 Notwithstanding the argument put forward by one of the Appellants that the existing development, or part thereof, has breached conditions pertaining to past permissions on the site, and that an agri-business use is now occurring, I note that enforcement matters are a function reserved solely for the relevant Local Authority.
- 7.4.2 The possible existence of unauthorised development is not sufficient reason, in itself, to refuse permission for the proposed development. There is no obligation for the Board to determine a dispute relating to the planning status of the operation that currently exists on the site and I note that the Planning Authority has stated in their response to the Board that the matter has recently been referred to the Council's Planning Enforcement Section, which I consider is the appropriate recourse in this case.
- 7.4.3 Furthermore, I note that there are previous permissions on the site for an agricultural shed (Reg. Ref. F01A/0641), and for an extension of this shed (Reg. Ref. F05A/1758), and that the present application states that it seeks to expand the storage capabilities of the structure in question.
- 7.4.4 During my inspection of the site, there was no presence of vegetables, fruit, or any other examples of horticultural crops, that would typically be associated with horticulture activity. However, there was a presence of farming equipment and machinery, including several stockpiles of bagged and covered fertiliser products lying around the property.
- 7.4.5 This type of equipment and material could potentially be used as part of an existing horticulture operation, which I note is consistent with the Development Plan definition for Agricultural Buildings, being the 'use of a building(s) for the purposes of horticulture and agriculture, including for the purposes of housing livestock, dairy farming, training of horses, growing of produce, storage and other uses directly related to primary food production and the rearing or breeding of livestock'.
- 7.4.6 Furthermore, and acknowledging the assertion by an Appellant that the proposed development is an 'Agribusiness', which is not permitted under the relevant zoning, I

note Objective Z05 and Section 11.5 of the Development Plan, which address non-conforming uses.

7.4.7 Section 11.5 states that throughout the County there are uses which do not conform to the zoning objective of the area. These are uses which were in existence on 1st October 1964, or which have valid planning permissions, or which are unauthorised but have exceeded the time limit for enforcement proceedings. Reasonable intensification of extensions to and improvement of premises accommodating these uses will generally be permitted subject to normal planning criteria.

7.4.8 I note that the proposed development is for an extension to an existing premises and that it includes a new stormwater attenuation facility. Therefore, I consider that that this section of the Development Plan is relevant and that the addition of the new attenuation facility to store excess surface water, together with its controlled release, would improve the existing operation. I also note that the Council's Water Services Section raised no objection to the proposal and required only that no surface water / rainwater be discharged into the foul water system.

7.4.9 In summary, I consider that the proposed development, which is to extend an existing agricultural shed, together with the installation of a new stormwater attenuation facility and ancillary site works, is an appropriate form of development and it is recommended that permission be granted.

7.2. Visual Impact and Residential Amenity

7.2.1. The proposed development comprises an extension to an existing agricultural store, stormwater attenuation facility and ancillary site works. The extension would be roughly 1,373sqm and situated east of the existing main shed building that is currently on the site. It would have an overall height of 11.6m, length of 54m and width of 24m, approximately.

7.2.2. The proposed materials and finishes would generally match the existing large storage sheds on the property, comprising of aluminium sheeting and precast concrete panels. Access to the shed would be via an aluminium roller shutter door on the north (front) elevation of the structure.

- 7.2.3. The proposed development is situated near the eastern boundary of the site. This is away from the public road, Quickpenny Lane, that runs along the northwest boundary of the site and towards the R132 further south.
- 7.2.4. There are numerous existing sheds, storage facilities, and various agricultural equipment and machinery situated throughout the premises and much of this would be positioned between the new shed extension and public road. This would reduce the potential for direct or unimpeded views of the proposed shed extension from the public road network, including from the stretch of the R132 to the south which is the subject of a 'Preserve Views' objective.
- 7.2.5. Furthermore, I note that the site is defined as having landscape character that is 'Low Lying Agricultural'. The Development Plan states that this is an area characterised by a mix of pasture and arable farming on low lying land with few protected views or prospects. Such areas are dominated by agriculture and small residential settlements. The Development Plan also states that these areas are categorised as having a modest value only.
- 7.2.6. As the proposed development is an extension of an existing shed on the site, I do not consider that it would result in any discernible change in terms of additional vehicular movements or traffic, onsite activity, new processes / uplift in existing operations, or increased business hours. I note also that the nearest dwellings are to the south and southwest of the appeal site, which is on the far side of the property of where the new shed extension would be situated (i.e. the proposed extension is on the east side of the existing shed).
- 7.2.7. In summary, given the location, size, and height of the proposed development, I do not consider that there would be any significant visual, noise, or other amenity impacts arising.

7.3. Insufficient Legal Interest

- 7.3.1. It is contended by one of the Appellants that the Applicant does not have sufficient legal interest to make the application and that a letter of consent from the relevant landowner(s) should have accompanied the application.

- 7.3.2. I note that the Applicant has clarified the matter in their appeal response and appended a letter of consent from the Applicant's mother, who, it is stated, is the registered owner of the land.
- 7.3.3. I do not consider that any misrepresentation of landownership was intended by the Applicant, given the close family connection. In any case as the relevant party has now provided the requisite planning consent, I consider that this now resolves the matter.

7.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development; which is for an extension of an existing agricultural building, and which will be provided with onsite attenuation and a regulated flow control device, the nature of the onsite operation in question, and the distance from the nearest European site; no Appropriate Assessment issues arise. Therefore, 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 be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the existing character and the prevailing pattern of development in the surrounding area, the existing and established agricultural use on the site, and the provisions of the Fingal County Development Plan 2017-2023, it is considered, subject to compliance with the conditions set out below, that the proposed development by virtue of its size, scale, design, and positioning on the site, would not seriously injure the amenity of the surrounding area by way of noise, nuisance, visual intrusion, or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the 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.</p> <p>Reason: In the interest of clarity.</p>
2	<p>Prior to commencement of development, the Applicant shall submit for the written agreement of the Planning Authority a revised Proposed Site Layout Plan of the proposed shed extension providing a 2m offset from the eastern site boundary.</p> <p>Reason: In the interest of residential amenity.</p>
3	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p>
4	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
5	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900, Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	Reason: In order to safeguard the residential amenities of property in the vicinity.
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Ian Boyle
Planning Inspector

7th June 2022