



An
Bord
Pleanála

Inspector's Report

ABP-314419-22

Development	Retention of existing agricultural machinery storage shed, permission for retention of existing site entrance and hard standing area.
Location	Glan, Schull, Co. Cork
Planning Authority	West Cork County Council
Planning Authority Reg. Ref.	22369
Applicant(s)	Denis O' Leary
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Denis O' Leary
Observer(s)	Jack Zagar
Date of Site Inspection	9 th March 2023
Inspector	Eoin Kelliher

1.0 Site Location and Description

- 1.1. The subject site is situated in the townland of Glan, circa 2.8km northwest of Schull, County Cork. The site is accessed via a country road (L-8420) which skirts the lower slopes of Knocknageeha Hill.
- 1.2. The site has a triangular shape with a stated area of 0.183ha and comprises a shed primarily used for storing agricultural machinery and an associated yard which shares a vehicular entrance with the adjoining dwelling to the south. The shed sits on a manmade embankment adjoining an open drain on the east side of the public road with intermittent hedges growing on the side of the embankment.
- 1.3. The shed comprises a four bay steel framed structure erected on open ground and has a stated area of 390sq.m. The roof of the shed has a low pitch with eaves circa 4.8 in height and a ridge height of circa 6.7m. The shed is clad in dark green metal sheeting for the greatest part. A haulage container sits on the west side of the shed, outside its main steel structure but within its external envelope. Scaffolding installed on top of the container provides support to the external cladding on its western side. The roof of the shed partially extends over the container. The shed is open on its eastern side where it faces the hill.
- 1.4. The adjoining dwelling house to the south of the site is in the ownership of the applicant and is understood to be incomplete and vacant. The observer's dwelling is located circa 100m south of the site on the opposite side of the public road. Gloun Stone Quarry is located circa 660m to the southwest of the site. The surrounding area mainly comprises agricultural land, farmsteads, and rural dwelling houses.

2.0 Proposed Development

- 2.1. Permission is sought for the retention of the existing agricultural machinery storage shed, the adjoining hardstanding area and the site entrance. The development is currently the subject of planning enforcement proceedings.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 25th July 2022 the Council decided to refuse permission for the retention of the development for reasons relating to:

- 1) the negative impact of the development on the character, integrity and visual amenity of the rural area and non-compliance with the conditions and limitations pertaining to the previously permitted shed on the site, and
- 2) the impact of the structure on the use, maintenance and possible future development of the local road network.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Having regard to the scale, location, height and proximity of the shed to be retained to the public road, and the smaller size and screening proposals for the previously permitted shed on the site (reg. ref. 05/9270), the Area Planner considered that the development would have a significant negative impact on the visual amenity of the area.

The Area Planner questioned whether the site was being used for agricultural purposes given the abundance of disused vehicles, containers and other construction related items on the site at the time of inspection.

The Area Planner concurred with the Area Engineer's recommendation to refuse permission due to the impact of the development on the maintenance and possible future development of the local road network.

The Planning Authority's decision reflects the recommendation of the Area Planner.

3.2.2. Other Technical Reports

Area Engineer: Recommended refusing permission due to the location and scale of the existing structure, which would adversely affect the use, maintenance and possible future development of the local road network and set an undesirable precedent in this respect.

The Area Engineer's report states that the fill used below the foundation of the shed is visible and falling towards the roadside drainage, and that the proximity of the shed to the public road could cause issues for roadside drainage maintenance. The report also states that the development effectively rules out the possibility of any road widening in the area.

The Area Engineer's report also notes that there is a large amount of surface water run-off from the structure and states that the discharge of surface water to the roadside drains is not acceptable.

Environmental Officer: Recommended seeking further information regarding (1); the type of machinery stored in the shed and details of the servicing and refuelling of such machinery, (2); details of the farm activity associated with the shed, and (3) the location of any farmyard, land holding, silage storage areas etc. associated with the shed.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

A third-party submission was made by Jack Zagar, the resident of the dwelling located circa 100m southwest of the appeal site. The concerns raised are reflected in the appeal observation detailed in Section 6.3 below.

4.0 **Planning History**

4.1. Subject Site:

05/9270: Permission granted in 2006 for the construction of a dwelling house, garage and agricultural building for Denis O' Leary. The following conditions are noted:

Condition No. 9:

The site shall be landscaped in accordance with a comprehensive scheme of landscaping, full details of which shall be submitted to and agreed with the Planning

Authority before development commences. The area to the front of the garage shall include a raised bank which will screen the development and shall be planted with a variety of native species. No development shall take place until this scheme is agreed with the Planning Authority.

Reason: In the interests of visual amenity.

Condition No. 21:

The proposed agricultural outbuilding shall be used only for the storage of old / vintage farm machinery.

Reason: To safeguard the amenities of the area.

Condition No. 25:

No processes or commercial activities shall be undertaken in the proposed agricultural outbuilding.

Reason: To safeguard the amenities of the area.

The lifetime of this permission was extended in 2011 up to 21st August 2016 (planning application reg. ref. 11/72 refers). The permitted dwelling was constructed / substantially completed. The permitted garage and agricultural building were not executed.

4.2. Relevant Applications:

07/2747: Permission granted in 2008 for a silage yard, cattle crush and concrete yard incorporating soiled water tank and all associated site works for Denis O' Leary on a site circa 100m to the south of the appeal site.

A wired-off area in the location of the permitted silage yard is used for storing wrapped round bales. This area is served by an independent access road and is connected to the appeal site by a track. The permitted cattle crush and concrete yard were not executed.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

The site is situated in a rural area on land that is not explicitly zoned in the County Development Plan. The site is located within an area identified as a High Value Landscape.

The following objectives of the Plan are of relevance.

- **Objective EC 8-15** which seeks to, *inter alia*, encourage the development of sustainable agriculture and related infrastructure including farm buildings.
- **Objective HE 16-21** regarding the Design and Landscaping of New Buildings.
- **Objective GI 14-9** regarding protecting the visual and scenic amenities of the Landscape.
- **Objective GI 14-10** regarding minimising the visual and environmental impact of development on the landscape, particularly in areas designated as High Value Landscapes, in accordance with the Cork County Draft Landscape Strategy.

5.2. Natural Heritage Designations

None of relevance.

6.0 The Appeal

6.1. Grounds of Appeal

This first party appeal was made by Denis O'Leary against the decision of the Planning Authority to refuse permission. The grounds of appeal are summarised as follows:

- The subject shed was understood to be less than the 300sq.m planning exemption limit for agricultural structures when purchased and whilst it is situated in a high value landscape, it is not visible from any scenic route or

coastal area. The Council's concerns that the development has a significant negative impact on the visual amenity of the rural area are overstated.

- The shed deviates from planning permission reg. ref. 05/9270 but is only marginally above the exempted development limit.
- The shed to be retained is an agricultural building, ideally located proximate to the applicant's landholding, and is typical of agricultural structures in the countryside. Visual impact concerns can be ameliorated by planning conditions requiring additional screen planting and / or seeking amendments to the height or floor area of the shed, if considered necessary.
- The machinery in the sheds is used for daily farming activities in the morning and evening with very limited use of the local road network. The level of activity is appropriate to the rural area and the local road network. There is a limited number of farmers in the area; the development is unlikely to create a precedent for other similar developments.

6.2. Planning Authority Response

No further comments.

6.3. Observations

A third-party observation on the appeal was made by Jack Zagar, the resident of the dwelling to the south of the appeal site. The issues raised are summarised as follows:

- The shed to be retained does not comply with the conditions attached to the previously permitted shed on the site in terms of its location, size and height.
- The shed has been constructed on top of a raised bank that was required by condition to screen the building; this has had the effect of making it more visually prominent. The shed is poorly constructed and an eyesore, detracting from the value of the observer's property and other nearby residential properties.
- The development to be retained comprises a change of use insofar as the previously permitted shed provided for the storage of vintage farm machinery

and the shed to be retained provides for the storage of modern farming equipment used daily.

- The site around the building is akin to a small industrial park containing multiple non-farming commercial vans, tractors, hay gathering equipment, backhoes, front-end loaders, and large storage containers.
- Approving the subject appeal would set a precedent for non-compliance with other planning conditions. Specifically, the applicant has not installed the required wastewater treatment system associated with the adjoining dwelling giving rise to concerns that the observer's water supply from a bored well will be contaminated.
- As both the shed and house were constructed after the original and extended planning permission periods expired, the applicant had sufficient time to submit revised proposals for approval.

7.0 Assessment

7.1. I consider the main issues in determining this appeal are as follows:

- Principle of Development
- Visual Impact
- Impact on the Road Network
- Other Matters
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The applicant is seeking to retain an existing shed for the storage of agricultural machinery which he states is used in carrying out daily agricultural activities. I note that Objective EC 8-15 of the Cork County Development Plan 2022-2028 encourages, *inter alia*, the development of sustainable agriculture related infrastructure including farm buildings.

- 7.2.2. The applicant states that as well as being an electrician, he farms circa 50 acres of land that is in his ownership and within walking distance of the subject site. This landholding is supplemented by the rental of an additional 30 acres of land. The applicant also states that he assists his uncle on his farm and that all the machinery he uses in carrying out daily agricultural activities is stored in the subject shed, which is optimally located in proximity to his farming activities.
- 7.2.3. On the date of my inspection the main part of the shed contained several modern farm machines including, *inter alia*, tractors, a silage mower, silage wagon and silage rake, a round bailer, silage / maize trailers and a potato planter. The container to the side of the shed contained salvaged commercial lighting.
- 7.2.4. Whilst the applicant has not provided a map of his land holding or detailed information regarding the farming activity he is involved in, I note he was granted planning permission in 2008 for a farmyard / silage storage area to the south of the subject site. I also note that he was granted permission in 2006 for, *inter alia*, the construction of an agricultural building on the subject site, albeit restricted to the storage of old / vintage farm machinery.
- 7.2.5. Having regard to the foregoing, I am generally satisfied with the *bona fides* of the application, although I have some reservations regarding the use of the container within the shed, which appears to be related to the applicant's trade as an electrician. I consider the principle of providing an agricultural building on the site acceptable.

7.3. Visual Impact

- 7.3.1. Notwithstanding the assessment of the Planning Authority, I note that the agricultural building permitted under reg. ref. 05/9270 was never constructed and that this permission lapsed before the shed under consideration here was erected, as confirmed by aerial photography. The shed to be retained should, therefore, be assessed on its own merits and the Board should note that it is not bound by the Planning Authority's assessment of the previously permitted shed on the site.
- 7.3.2. Whilst the shed to be retained is visible from distant viewpoints on the local road network, it does not break the skyline. I also note that the shed is not visible from designated scenic routes, the nearest being the roads from Schull to Toormore

(R592) and Toormore to Durrus (R591). Furthermore, the shed does not, by virtue of its dark green finish, appear visually obtrusive on the landscape when viewed from afar. I concur with the applicant that such structures are typical of the rural landscape.

7.3.3. At close range, however, the shed appears somewhat visually domineering due to its elevated position and proximity to the public road. Very little space has been allowed for screen planting along the roadside with the existing hedge and tree planting restricted to the side of the bank on which the shed sits.

7.3.4. There is, however, scope to set the western elevation of the shed further back from the public road (circa 2.5m) by removing the container inside the shed. These works could be undertaken without interfering with the principal steel structure of the shed and would allow for a more acceptable level of screen planting on the roadside boundary. The applicant states he is amenable to conditions requiring additional screen planting and/or seeking amendment to the height or floor area of the shed, if necessary. Accordingly, the visual impact of the shed at close range by could be mitigated by way of a condition should the Board be of a mind to grant permission.

7.4. Impact on Road Network

7.4.1. The shed to be retained is located circa 4m back from the edge of the carriageway of the adjoining public road and circa 2m from the associated open drain on the east side of the road (as scaled from the site layout plan). Whilst I share the Area Engineer's concerns regarding the proximity of the shed to the roadside drain, setting the shed back a further 2.5m from the road, as previously recommended, would provide adequate clearance (circa 4.5m) for the purposes of maintaining the drain and would ameliorate the issue of fill falling into the drain.

7.4.2. The adjoining public road is a local road that is not heavily trafficked. I note the road is not the subject of a road improvement objective in the County Development Plan and that the County Development Plan does not stipulate a minimum separation distance between buildings and local roads. Whilst I acknowledge the proximity of the development to the public road, it does not adversely affect the use of the road or endanger public safety by reason of a traffic hazard or obstruction of road users. In this regard I note that 70m sightlines can be obtained in both directions from the site

entrance. I also consider any increase in road traffic arising from the development is likely to be low and would have a negligible impact on the capacity of the road.

7.5. Other Matters

- 7.5.1. I note the applicant proposed to install a soakaway to the north of the shed to deal with the surface water runoff from the roof of the structure. A linear drain is proposed at the site entrance and would discharge to the roadside drain. Whilst the discharge of surface water to the roadside drain is not acceptable to the Area Engineer, this matter could be addressed by providing an additional soak pit to the south of the shed.
- 7.5.2. The Area Planner raised concerns that the overall use of the shed for agricultural purposes is questionable given the presence of, *inter alia*, construction related vehicles on the site. The observation on the appeal also refers to multiple commercial vehicles on the site. During my inspection I did not observe any substantive evidence that a commercial activity is being carried on within the site and I am satisfied that the primary purpose of the shed to be retained is the storage of agricultural machinery. Any potential for the unauthorised use of the shed can be dealt with by way of a condition restricting its use to the storage of agricultural machinery only.
- 7.5.3. I note the observer's concerns that a change of use from a permitted shed for the storage of old / vintage farm machinery to a shed for storing / servicing modern farming equipment. However, the previously permitted shed was never constructed and, as such, a change of use relating to an existing structure is not proposed under the current application. As previously stated, the current proposal should be assessed on its own merits and in this respect, having regard to the dry storage nature of the shed and the distance to the nearest dwelling, I am satisfied that the development would not have an adverse impact on the amenities adjoining properties.
- 7.5.4. I also note the observer's concerns that a grant of permission would set a precedent for the applicant to circumvent other planning conditions in respect of the adjoining dwelling house and, specifically, conditions relating to the domestic wastewater treatment associated with the dwelling. This is not the case. The current application

merely seeks to regularise the planning status of an agricultural building which was constructed without the benefit of planning permission. The conditions relating to the permitted and constructed dwelling to the south of the site, and the permitted domestic wastewater system, still stand and it is a matter for the Planning Authority to enforce these conditions if necessary.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the development, which comprises a building for the storage of agricultural machinery in a rural location, and the distance to the nearest European sites and the absence of known pathways to European sites, it is considered that the development would not be likely to have a significant effect individually, or in combination with other plans or projects, on a European site. Accordingly, Appropriate Assessment is not required.

8.0 **Recommendation**

- 8.1. Having regard to the foregoing I recommend that permission be GRANTED for the retention of the development for the reasons and considerations set out below subject to conditions.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the policy and objectives of the Cork County Development Plan 2022-2028, it is considered that the development to be retained would not, subject to the conditions set out below, detract from the visual amenity of the area, seriously injure the amenities of property in the vicinity, or adversely affect the use of the public road network. The proposed development would, therefore, be in accordance with the proper planning sustainable development of the area.

10.0 **Conditions**

1.	The development shall be retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such
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	<p>conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority within six months of permission being granted, and the development shall be retained and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The shed shall be used solely for the storage of agricultural machinery used in connection with the farm-holding and shall not be used for the housing of animals or for commercial purposes.</p> <p>Reason: In the interest of clarity and to protect the amenities of the area.</p>
3.	<p>Within six months of permission being granted, the applicant shall comply with the following requirements:</p> <p>(a) The storage container located on the west side of the shed shall be removed from the site.</p> <p>(b) The western facade of the shed shall be set back a further 2.5 metres from the public road and shall comprise dark green coloured cladding to match the remainder of the shed.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Within the next planting season following compliance with Condition No. 3 above, a treeline shall be planted along the western boundary of the site. The trees shall consist of native or naturalised species and varieties such as mountain ash, birch, willow, sycamore, oak, hawthorn, holly, hazel, beech or alder. Any trees which die, are removed or become seriously damaged or diseased, within a period of five years from permission being granted, shall be replaced within the next planting season with others of similar species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In order to screen the development, in the interest of visual amenity.</p>
5.	<p>Drainage arrangements for the disposal of surface water shall comply with the requirements of the planning authority for such works.</p>

	Reason: In ensure adequate servicing of the development and in the interest of public health.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Eoin Kelliher
Planning Inspector

5th April 2023