



An
Bord
Pleanála

Inspector's Report

ABP-314831-22

Development	Existing domestic garage and all associated site works.
Location	Alcorns Flower and Garden Centre, Loughnagin, Letterkenny, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2251260
Applicant(s)	Clive Alcorn.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Dr Ann McDaid.
Observer(s)	None.
Date of Site Inspection	22 nd March 2023.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.79ha and is located in the townland of Loughnagin, in Letterkenny in County Donegal. The site comprises the northern end of a commercial site known as Alcorns Flower and Garden Centre.
- 1.2. The area of the commercial site where the proposed development is located contains a number of polytunnels, a production unit and other structures. It is on land that is elevated above the southern part of the commercial site and which is laid out in a series of graduated steps. The subject garage is located at the highest part of the site.
- 1.3. The site is adjoined to the west by the Meadow Hill housing estate and is separated from it by security fencing and a mix of trees and vegetation.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises retention of a domestic garage and associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 15th September 2022, subject to 3 No. conditions.

3.2. Planning Authority Reports

- 3.2.1. A Planning Report dated 8th September 2022 has been provided, which reflects the Planning Authority's decision to grant permission. The report can be summarised as follows: -

- Development acceptable in principle
- Location, height and design are acceptable.
- No privacy, overlooking or residential amenity issues arise.

3.2.2. Other Technical Reports

A **Roads Department** report dated 8th August 2022 has been provided, which expresses no objection.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. A single third-party submission was received, the issues raised in which can be summarised as follows: -

- Unauthorised development,
- Public notices,
- Residential amenity,
- Visual impact,
- Noise and disturbance.

4.0 Planning History

2251655: (ABP-315395-22) Current appeal relating to the erection of a storage shed and solar panels on roof and erection of additional polytunnel.

2051422: Permission granted on 6th January 2021 for construction of a plant production unit consisting of work shed, 2 No. polytunnels and netted structure.

UD21325: The Planning Authority report indicates that this is an unauthorised development case in relation to non-compliance with permission Reg. Ref. 2051422.

5.0 Policy Context

5.1. Donegal County Development Plan 2018-2024

- 5.1.1. Part C of the development plan contains objectives and policies for the towns within the county, including Letterkenny. It also includes land-use zoning maps for each of the towns, with Map 12.1B relating to Letterkenny.
- 5.1.2. The subject site is identified on the zoning map as subject to the 'Established Development' zoning, with an objective *'To conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement subject to all relevant material planning considerations, all the policies of this Plan, relevant National/ regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area.'*

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within or adjacent to any designated European site, the closest such site being Lough Swilly SAC (Site Code 002287), which is c.0.8km south-east.
- 5.2.2. The River Swilly Valley Woods proposed Natural Heritage Area (Site Code 002011) is c.0.6km west.

5.3. EIA Screening

- 5.3.1. The subject development is a domestic garage. This type of development does not constitute an EIA project.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows: -
- The site notice erected at the site access was invalid.

- The exact nature of the development proposed is questioned, with reference to the vague inclusion of associated site works.
 - It is questioned whether the relocation of structures forms part of the application.
 - It is questioned whether relocation of ESB overhead lines forms part of the application.
 - It is questioned whether the erection of a two-bay netted structure forms part of the application.
- Operation of the commercial site has resulted in noise and disturbance and affects enjoyment of the adjacent garden.
- Historic development at the subject site
 - The submission makes extensive reference to unauthorised development complaints/correspondence regarding non-compliances with conditions attached to Reg. Ref. 5051422.
 - Trees planted adjacent to the appellant's house interfere with access to light and roots will cause damage to the property.
 - The applicant should be required to maintain all trees to no more than 2m high.
 - The relocation of structures on the appeal site has had a greater negative impact, by reason of visual impact, nuisance and loss of privacy.
- Regarding concurrent application Reg. Ref. 2251655, this will exacerbate existing problems being experienced.

6.2. Applicant Response

- 6.2.1. None received.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority made a submission on 3rd November 2022, referring the Board to the Planning Report prepared in respect of the application.

6.4. **Observations**

6.4.1. None

6.5. **Prescribed Bodies**

6.5.1. None.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the third-party appeal in detail, the main planning issues in the assessment of the proposed development are as follows:

- Application validity
- Principle of development;
- Visual impact and residential amenity;
- Other issues; and
- Appropriate Assessment.

7.2. **Application Validity**

7.2.1. The appellant expresses concern that the site notice was invalid as it was not easily visible. Similar views were expressed in her submission to the Planning Authority

7.2.2. The validation of planning applications is a matter for the Planning Authority and I note that in this instance the Planning Authority accepted the application as valid and, further, the appellant's concerns were addressed in the Planning Report, where the Area Planner outlined that they had observed the site notice when on the site and they were satisfied that the application was valid.

7.2.3. In my opinion the matter was addressed comprehensively by the Planning Authority and there is nothing within the appeal which would lead me to question its determination.

7.3. **Principle of Development**

- 7.3.1. The applicant seeks permission for retention of a domestic garage and associated site works. The garage has a floor area of 41.6sqm, a maximum height of 3.34m and is clad in powder coated aluminium panels. It is not used as part of the commercial business; it is used for domestic storage purposes and at the time of my inspection was used for the storage of 2 No. rally racing cars.
- 7.3.2. The garage is located in the northern part of the Alcorn Flower & Garden Centre site, in an area of the site that contains other structures associated with the commercial business, including taller polytunnels and structures of a similar character.
- 7.3.3. I am satisfied that the development is consistent with the established pattern of development on the site and conclude that it is acceptable, subject to consideration of other relevant factors below.

7.4. Visual Impact and Residential Amenity

- 7.4.1. The appellant expresses concern that development at the site impacts on her privacy and enjoyment of her property.
- 7.4.2. The Alcorn Flower & Garden Centre site rises in level from south to north. At the north end of the site, levels rise in a series of graduated steps. The subject garage is located in the most elevated part of the site. The garage is of a limited scale and height and is set in a context of other commercial buildings. It is likely to be visible from the upper floor of adjacent housing to the north, but I do not consider that it has any significant or unacceptable visual impact and does not give rise to any loss of privacy.
- 7.4.3. The appellant's concerns over the visual impact of development appear to relate primarily to other existing development at the site. The Board will note that these other existing structures do not form part of the proposed development.
- 7.4.4. Concerns regarding noise and disturbance similarly appear to relate to the wider commercial operation ongoing at the site. Some noise is inevitable on a commercial site but I do not consider the garage proposed for retention gives rise to noise concerns that would be sufficient to justify a refusal of permission. I would also advise the Board that the Planning Authority has powers under separate codes in respect of noise nuisances, should such issues arise.

7.5. Other Issues

- 7.5.1. The appellant makes detailed comment regarding historic development at the site, which has evidently included complaints of unauthorised development. In discussing such previous development, the appellant questions whether other structures that are identified on the application drawings but, which are not expressly identified in the public notices, could be encompassed within the description of 'associated site works.'
- 7.5.2. It is evident from the appeal submission document that the appellant has ongoing concerns regarding development at the site. The Board has no function in relation to the investigation of unauthorised development complaints and this is a matter for the Planning Authority. I am satisfied that the inclusion of associated site works relates solely to those works associated with the garage proposed for retention and does not encompass other structures such as polytunnels or a work shed but, having said this, I acknowledge that the site layout drawing identifies relocation of structures and overhead lines, which may give rise to some uncertainty. For completeness, should the Board decide to grant permission, they may wish to attach a condition specifying that the grant of permission relates solely to the domestic garage proposed for retention.
- 7.5.3. The appellant also expresses concern that trees in the area of the shared boundary with her property interfere with access to light and that roots will cause damage to her property.
- 7.5.4. The trees in question are in the area of the west site boundary and are, in my view, adequately set away from the appellant's home. I accept the appellant's submission that if the trees are unmanaged, they may grow to a height that affects rear-facing views from her house, however; the applicant does not require permission to plant trees on this site and I would also advise the Board that there is no legal entitlement to a view. I thus consider it would be unjustified to refuse permission on this basis.

7.6. **Appropriate Assessment**

- 7.6.1. The site is not located within or adjacent to any designated European site, the closest such site being Lough Swilly SAC (Site Code 002287), which is c.0.8km south-east.
- 7.6.2. The proposed development is a domestic shed with a stated floor area of 41.6sqm and is located within an existing commercial site. I am satisfied that there is no real

likelihood of significant effects on the integrity of Lough Swilly SAC, or other European sites within a 15km potential zone of influence, and I am satisfied that the requirement for Stage 2 appropriate assessment can be excluded at this stage.

8.0 Recommendation

8.1. I recommend that permission for retention be granted for the following reasons and considerations, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the Established Zoning which applies to the site under the Donegal County Development Plan 2018-2024, together with the character and pattern of development on this commercial site, it is considered that subject to compliance with conditions set out below, the proposed development does not seriously injure the visual amenities of the area or property in the vicinity. The proposed development would therefore be in accordance with the provisions of the Donegal County Development Plan 2018-2024 and would also accord with the proper planning and 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 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.	This permission relates solely to the retention of a domestic shed and does include other structures identified on the site layout drawing but which were not identified in the public notices.

	Reason: In the interest of clarity.
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Barry O'Donnell
Planning Inspector

6th April 2023.