



An
Bord
Pleanála

Inspector's Report

ABP-315395-22

Development

(1) Storage shed for the storage of equipment associated with the existing business including erection of solar panels to roof (2) Additional poly tunnel attached to existing poly tunnels and netted structure approved under planning ref no 20/51422.

Location

Alcorns Flower and Garden Centre, Loughnagin, Letterkenny, Co. Donegal.

Planning Authority

Donegal County Council

Planning Authority Reg. Ref.

2251655

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

22nd March 2023.

Inspector

Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.91ha 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 northern end of the 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 proposed development 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: -
 - (1) Storage shed for the storage of equipment associated with the existing business including erection of solar panels to roof.
 - (2) Erection of an additional poly tunnel attached to existing poly tunnels and netted structure approved under planning Ref. 2051422.
 - (3) Associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 24th November 2022, subject to 4 No. conditions.

3.2. Planning Authority Reports

- 3.2.1. A Planning Report dated 21st November 2022 has been provided, which reflects the decision to grant permission. The report states that the proposal is compatible with the established commercial use and that the location, scale, height and design are

acceptable. It recommends that permission be granted subject to 4 No. conditions which are consistent with those attached to the decision.

3.2.2. Other Technical Reports

The Planning Authority report indicates that the **Roads Department** made a submission on the application, which did not express any objection. A copy of this report was not provided as part of the appeal documentation.

A **Building Control** report dated 8th November 2022 has been provided, which recommends conditions.

The Planning Authority report indicates that the **Chief Fire Officer** was consulted on the application but did not make a submission.

3.3. Prescribed Bodies

3.3.1. The Planning Report indicates that Irish Water and An Taisce were consulted on the application but did not make a submission.

3.4. Third Party Observations

3.4.1. 1 No. third party submission was received, the issues raised within which can be summarised as follows: -

- Overdevelopment,
- Public notices,
- Residential amenity,
- Visual impact,
- Noise and disturbance,
- Devaluation of property.

4.0 Planning History

2251260: (ABP-314831-22) Current appeal relating to retention of a domestic garage and associated site works.

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.*'

5.1.3. Relevant policies include: -

ED-P-7: It is a policy of the Council to consider proposals for the extension of an existing industrial or business use within a defined settlement provided the resultant scale and form of the enterprise is compatible with the character and scale of the settlement and locality and the proposal meets the criteria set out in Policy ED-P-14.

ED-P-14: It is a policy of the Council that any proposal for economic development use, in addition to other policy provisions of this Plan, will be required to meet all the following criteria;

(a) It is compatible with surrounding land uses existing or approved;

(b) It would not be detrimental to the character of any area designated as being of especially high scenic amenity (ehsa);

(c) It does not harm the amenities of nearby residents;

- (d) There is existing or programmed capacity in the water infrastructure (supply and/or effluent disposal) or suitable developer-led improvements can be identified and delivered;
- (e) The existing road network can safely handle any extra vehicular traffic generated by the proposed development or suitable developer-led improvements are identified and delivered to overcome any road problems;
- (f) Adequate access arrangements, parking, maneuvering and servicing areas are provided in line with the development and technical standards set out in this plan or as otherwise agreed in writing with the planning authority;
- (g) It does not create a noise nuisance;
- (h) It is capable of dealing satisfactorily with any emission(s);
- (i) It does not adversely affect important features of the built heritage or natural heritage including natura 2000 sites;
- (j) It is not located in an area at flood risk and/or will not cause or exacerbate flooding;
- (k) The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;
- (l) Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;
- (m) In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape;
- (n) It does not compromise water quality nor conflict with the programme of measures contained within the current north western river basin (nwirbd) management plan.

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 proposed development comprises a storage shed and additional polytunnel, on an existing commercial site within the urban footprint of Letterkenny. 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 was not clearly visible from the public road.
- The site is overdeveloped currently and gives rise to noise and disturbance issues. Further development will affect the residential amenity of adjacent occupiers.
- Further development will extend the physical presence of structures on the site and overbear adjacent residential property.
- The development will block available views of Lough Swilly and the surrounding landscape.
- Previously approved development has not been built in accordance with approved plans.
- Cumulative developments at the site have devalued adjacent property.

6.2. **Applicant Response**

6.2.1. The applicant responded to the appeal in a submission made by MH Associates on 16th January 2023, the contents of which can be summarised as follows: -

- The development is acceptable under the Established Development zoning.
- Site notices were confirmed by the Planning Authority as valid.

- The development has no significant impact on residential amenity.
- The proposed development will not give rise to additional noise or disturbance that is not uncommon for an established urban business of this nature.
- It is acknowledged that there was previous non-compliance with conditions attached to Reg. Ref. 2051422 but this was regularised under the supervision of the Planning Authority.
- The appeal is without merit.

6.3. **Planning Authority Response**

- 6.3.1. The Planning Authority made a submission on the appeal on 23rd January 2023, 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 applicant states 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 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 that they were satisfied the application is 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 a storage shed including solar panels to roof and an additional poly tunnel attached to existing poly tunnels and a netted structure.
- 7.3.2. The proposed development is consistent with the established commercial use of the site and is also supported by policy ED-P-7 of the development plan, which supports extensions of existing businesses in appropriate circumstances.

7.4. Visual Impact and Residential Amenity

- 7.4.1. The appellant expresses concern that the site is overdeveloped currently and that further development will affect the residential amenity of adjacent occupiers. She further argues that additional development will overbear adjacent housing and will block available views of Lough Swilly and the surrounding landscape.
- 7.4.2. The Alcorn Flower & Garden Centre site rises in level from south to north. At the north end of the site, where the proposed development is located, levels rise in a series of graduated steps. Both elements of the development are located in the most elevated part of the site. The proposed shed has a floor area of 102.43sqm and height of 5m, whilst the polytunnel has a floor area of 156sqm and height of 3.4m.
- 7.4.3. Available aerial photograph imagery indicates that the area where the proposed development is located was laid to grass until recently but at the time of my inspection it had been partly developed as a series of polytunnels and other structures associated with the commercial operation. The proposed polytunnel is located at the eastern end of a series of other polytunnels, whilst the storage shed is

adjacent to a netted structure. I am satisfied that there is adequate space on the site to accommodate the development and that there is no issue of overdevelopment.

- 7.4.4. Regarding impacts on the residential amenity of adjacent occupiers, the proposed development is likely to be visible from the adjacent housing but I do not consider it has any significant or unacceptable visual impact and does give rise to any loss of privacy or overbearance. It is set in a context of other structures of a similar scale and character and will not, in my view, intensify the visual impact of structures on the site or overbear adjacent houses.
- 7.4.5. With reference to concerns over the blocking of views of Lough Swilly and the surrounding landscape, whilst the Board will be aware that there is no legal entitlement to a view, I nevertheless do not share the appellant's concerns. Both proposed structures are visually connected to other structures on the site and, in the case of the proposed polytunnel, it has a similarly low maximum height to other polytunnels on the site. The storage shed is taller than the netted structure which it adjoins, but in view of its smallscale nature, it would not have any significant enclosing effect on the available views.
- 7.4.6. Some noise is inevitable on a commercial site but I do not consider the proposed development 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 responding to the appeal, the applicant acknowledges that structures approved under Reg. Ref. 2051422 were initially not constructed in their approved locations but that, following the appellant's complaint they were resited to the correct location under the supervision of the Planning Authority.
- 7.5.2. The Board has no function in relation to the investigation of unauthorised development complaints, which is a matter for the Planning Authority.
- 7.5.3. Regarding concerns that the development would devalue adjacent property, I have assessed the merits of the proposal and consider it would not give rise to any

unacceptable visual impact or impact on residential amenity. I therefore see no basis for concerns regarding devaluation of property.

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 comprises a 102.43sqm storage shed including solar panels to roof and a 156sqm poly tunnel on an existing commercial site within the urban footprint of Letterkenny. 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 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 would not seriously injure the visual amenities of the area or the amenity of residential 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 carried out in accordance with the plans and particulars lodged with the application, except as may otherwise be
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	<p>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>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
3.	<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> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>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.</p>

	<p>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.</p>
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Barry O'Donnell
Planning Inspector

6th April 2023.