



An
Bord
Pleanála

Inspector's Report ABP 316263-23

Development	A lean to storage shed with associated site works.
Location	Keenaghan, Kilmacrennan, Letterkenny P.O. Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2350064
Applicant(s)	Louise McKee and Ivan Irwin
Type of Application	Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Ann Sheridan
Observer(s)	None
Date of Site Inspection	14 th August 2023
Inspector	Rosemarie McLaughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area c 10 km north of Letterkenny, on the south side of a local road, L6012, in an area which is characterised by sections of one off ribbon development. The site is located to the c 350 m south of Kilmacrennan, a Layer 3 settlement comprising of predominantly residential development and limited services.
- 1.2. The 0.77 ha site consists of a dwelling house centrally within the site, a high garage/store structure c 79 sqm (scaled off drawings) to the south west of the site, and a shed c 52 sqm which is the subject of the appeal, to be retained, located 2m to the boundary with the dwelling site to the south west, which is the home of the appellant. In addition to the main vehicular access to the appeal site, there are two, side by side gates, providing access from the local road to the western side of the site, where the proposed structure is sought to be retained. Only one gate is shown of the planning application drawings, c 3m wide. A post and wire fence with a gate separates the land in front of the building to be retained and the dwelling house.
- 1.3. The appellant's dormer home is located on the south western side of the appeal site, c 8.25 m from the shed proposed to be retained. An open drain is located inside the boundary of the appeal site, adjacent to the boundary of the neighbouring property of the appellant.
- 1.4. A small field is located to the rear of the dwelling house on the appeal site. The appeal site slopes from north to the south c 4m.

2.0 Proposed Development

- 2.1. This is an application for retention of a 52 sqm rectangular shaped structure with a maximum height of 2.97 metres above finish floor level. The elevations do not reflect the sloping nature of the site. The structure with a mono pitch roof is divided into three separate areas, each with its own door and individual roof light. The structure is currently used for storage purposes. In addition to the structure, at each gable end, there is a 2m wide wall with an angled top, running in the opposite direction of the monopitch roof. These walls enclose on three sides, an area of c 26.3 in front of the three doors into the separate areas within the structure. A large farm gate is

attached to the wall on the southern gable which is not shown on the submitted drawings.

- 2.2. The planning statement which accompanies the planning application states that the structure to be retained was built for the purpose of a stable and that an application for retention of a stable was withdrawn as it was likely to be refused. The “development description” in the planning statement, states the three units within the structure will be used to store turf/coal, dry foodstuffs for the horse such as hay and animal feed and a domestic store associated with the house.
- 2.3. While this is an application for retention only and not also for permission for works, the applicant proposes to place a 2m closed board fence between the application site and adjoining property along with planting a leylandii hedge that will grow quickly and screen the building from the adjacent country road and third party property. The applicant also proposes to render the building and to alter the doors from stable doors to solid doors.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority recommended a grant of permission subject to seven conditions mainly relating to details restricting the use that can occur within the structure and requiring certain works to be carried out. The following summarised conditions are of note.
 - Condition 2 specified that the shed for retention shall be used solely for dry storage purposes only and ancillary to the domestic use of the host residential property.
 - Condition 3 required that the shed shall not be used for the storage of farm animals or domestic pets or for the storage of any effluent or waste.
 - Condition 4 required the external walls of the storage structure to be completed in a white painted render finish, the corrugated roof to be painted dark green, and the two existing stable doors to be replaced with full height solid timber doors.

- Condition 5 required the existing boundary fence along the southwestern boundary to be replaced with a 2 metre high close board fence.
- Condition 6 required the fencing along the southwestern boundary to be back planted with hedgerow.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. A live enforcement case on the appeal site is referred to. Some concerns were noted in relation to the sighting and positioning of the structure along the boundary with a third party, in relation to the overall size of the site, and its capacity to be sited elsewhere. Considering the low rise nature of the existing structure, it was not considered to give rise to significant adverse visual or design impacts and was not considered to be of an overbearing nature. The planning assessment argued that the proposal is not ideal in terms of orderly or neighbourly development, but did not consider that the retention of this structure gives rise to significant visual harm that warrants refusal and considering the use, it is no different to any domestic garage.

3.2.3. A planning permission was withdrawn where the use related to a stable. That application was withdrawn prior to final decision being made and it was considered the stable along the boundary was not orderly or neighbourly, would give rise to associated noise and waste odour issues and would have the potential to have detrimental impact on the neighbouring property. The current application seeks to retain the structure for storage. It is considered the conditions can be imposed restricting the use of the shed to domestic use related to the host property only. An AA screening was carried out that determined that an appropriate assessment is not required.

3.2.4. The observation by the neighbouring property is summarised and responded to.

3.2.5. Other Technical Reports

3.2.6. None

4.0 Planning History

P.A ref. 027186 Retention of access permitted.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The County Donegal Development Plan 2018 - 2024 applies. The appeal site is located in a *Stronger Rural Area* Type on Map 6.2.1. The appeal site is located in an Area of *High Scenic Amenity* (HSA) on Map 7.1.1.
- 5.1.2. The following most relevant policies and statements apply.
- 5.1.3. Areas of High Scenic Amenity (HSA) are defined as *Areas of High Scenic Amenity are landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.*
- 5.1.4. NH-0-5: To protect, manage and conserve the character, quality and value of the landscape having regard to the proper planning and development of the area, including consideration of the scenic amenity designations of this plan, the preservation of views and prospects and the amenities of places and features of natural, cultural, social or historic interest.
- 5.1.5. NH-P-13: It is a policy of the Council to protect, conserve and manage landscapes having regard to the nature of the proposed development and the degree to which it can be accommodated into the receiving landscape. In this regard the proposal must be considered in the context of the landscape classifications, and views and prospects contained within this Plan and as illustrated on Map 7.1.1: 'Scenic Amenity'.
- 5.1.6. Development Management Guidelines 2007
- Certain criteria are suggested as a guide to deciding whether to impose a condition. These include whether the condition is: Necessary; Relevant to planning; Relevant to the development to be permitted; Enforceable; Precise; Reasonable. In addition, it is useful before deciding to impose a condition to consider what specific reason

can be given for it: if the only reason which can be framed is a vague, general one, the need for or relevance of the condition, or its validity, may be questionable.

5.2. Natural Heritage Designations

5.2.1. The appeal site is located c.170 m south of the River Leannan SAC, Site Code 002176.

Qualifying Interests:

- Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]
- Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]
- Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]
- Salmo salar (Salmon) [1106]
- Lutra lutra (Otter) [1355]
- Najas flexilis (Slender Naiad) [1833]

This site is of high conservation importance, due to the presence of the Habitats Directive Annex I habitat oligotrophic lakes of sandy plains, as well as the Annex II species Freshwater Pearl Mussel, Otter, Atlantic Salmon and Slender Naiad.

The River Leannan SAC overlaps with Derryveagh and Glendowan Mountains SPA (004039) (7.1 km west) and Lough Fern SPA (004060) (c 3.2km to NE) and is adjacent to Cloghernagore Bog and Glenveagh National Park SAC (002047) (c7.3 km west).

5.3. EIA Screening

5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

The third party appeal may be summarised as follows.

- The observation to the planning authority is enclosed with the appeal . The appeal also includes the enforcement history and correspondence.
- The area is identified as an area of high scenic rural area and a special area of conservation. There appears to be existing domestic storage on site within the existing larger style domestic shed located to the side of the existing dwelling house. If granted, there is serious concern the development would return to being a stable structure for housing horses as the existing design and layout of the building is an agricultural structure in appearance, elevation and layout. A photograph of the structure with a horse inside is submitted with the appeal.
- The applicants have failed to provide adequate drainage and has redirected the overflow from the stream into the appellants property during periods of heavy rain. There have been large rocks in the stream that leaves debris after the rain has cleared.
- The applicant has not specified the other associated site development works as part of the application.
- The building that has been constructed has created a negative impact on the landscape from a visual point of view and will encourage similar development. Sections of the county development plan are quoted and in particular policies NH05 and NHP13.
- In relation to horse stables, exempted development states that no structure shall be situated and no effluent from such structure shall be stored within 100 metres of any house. (It may be noted, this is reference to Agricultural Structures, class 6 of the Planning and Development Regulations 2001 as amended).

- The proposed development for retention is less than 8 metres from the dwelling home of the appellant and yet is a significant distance away from the developers own dwelling and is located proximate to the site boundary between the properties. The applicants had several options to locate the structure on another part of the site, but they choose to build as far away as possible from their own home dwelling which has resulted in the development being adjacent to the appellants property rather than the other boundaries which have no adjacent properties.
- The appellants are aware of an ammonia smell particularly in the warmer weather. Since the development has been built there is a horse on the site permanently which will create an environmental concern and hazard within an SAC area, an issue that may be required to be acknowledged with inland fisheries.
- Odour, pollution, noise pollution, horse flies and most significantly the visual view of the development from the appellants home which is immensely intruding are the main objections.
- The morning sunrise will be obstructed by the proposed development.
- The applicants have proposed a 2 metre high fence which owing to the height may require planning permission. The proposal to plant along the boundary should have taken place prior to applying for planning permission. The development proposal to provide quick growing tall leylandii style planting and a two metre high fence may block natural light to the neighbouring existing dwelling house no sunlight daylight and shadow analysis has been provided.
- Concerns are raised regarding the future upkeep of the building as it is currently in an unkempt state with discarded waste behind the fence. Storage of animal feed, hay, turf etc will increase the risk of rodents.
- A withdrawn application for a stable/tack room and turf shed and the existing application is for the same building and layout where the change of name does not necessitate it to be a distinct from its original purpose.

6.2. Applicant Response

The applicant response to the appeal may be summarised as follows.

- The applicants decided to build a stable and believed the works were exempted development. An application was submitted for stables and a tack room and was subsequently withdrawn as, after consultation with the planning authority it would not have been approved.
- The planning authority advised if the building were to be retained and used for the purpose of storage that it would be acceptable and as a result, the current application was made which includes the purposes of storage and foodstuffs. The applicants are willing to comply with the permission conditions.
- In the past, a line of mature silver Birch trees were maintained along the boundary and removed at the behest of the appellant. If the trees had been retained, the appellant would not have seen into the new structure. At the appellant's southwestern boundary there is a large storage shed which is similar or closer than the applicant's storage shed.
- The appeal is incorrect as the entire site is not located within an SAC. The owners have provided adequate drainage as the drain has adequate carrying capacity to deal with any water generated from the development. The drain was opened, is maintained by the applicant and has not been obstructed.
- There is no breach of privacy as there are no windows and doors on the shed. As there is another shed located equally close to the appellants boundary on the southwestern side, it will not affect the value or appearance of the neighbouring property. There are eight existing stable blocks and six horse/pony sand arenas within a 5 kilometre radius of the appellant's house and many more sheds.
- The planning policy permits rural building such as the proposed shed to be retained and it is also a way of life in rural Ireland to have small storage buildings on land holdings.
- The storage shed is not complete as it requires rendering, etc. If the necessary screening is in place, the small structure, will not be injurious to the

enjoyment of adjoining properties. The applicant fully intends to complete the structure if a final grant of permission is issued. No loss of light will occur owing to the height.

- It is acknowledged the shed is unauthorised, but the error is now being regularised.

6.3. Planning Authority Response

A response from the planning authority (11th of May 2023) considered that the matters raised in the appeal have been addressed in the planning report.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. The main issues in this assessment may be considered under the following headings:

- Principle of Development and matters relating to conditions
- Impact on residential amenity of neighbouring property
- Visual impact on area
- Drainage
- Application for works
- Appropriate Assessment

- 7.2. Principle of development
- 7.2.1. The development of a shed on a large plot, along a rural road, close to an existing settlement, is prima facia acceptable in principle, having regard to specific site considerations and applicable planning policies. The planning legislation provides that permission may be sought to be retained and accordingly this report will assess the development as proposed to be retained, without reference to the separate enforcement process which has been raised by the appellant, the applicant and the planning authority in the appeal.
- 7.2.2. It is the case, and not disputed by any of the parties to the appeal, that the structure sought to be retained was built as a stable, and the structure as built, is now proposed to be retained as storage of stated materials.
- 7.2.3. The appeal raises the issue that there is already existing storage on the site, and this is not responded to in the appeal. I consider that the existing large storage structure as relevant when taken in conjunction of the proposed retention of an additional structure. I do not concur with the applicant that this is a small shed and I consider the shed at c 52 sqm, combined with the existing shed of c 79 sqm as very significant ancillary storage for one dwelling house. For context, a one bedroom minimum apartment size is 45 sqm. I also note, the three-sided enclosed area adjacent to the shed has two gable extended walls capable of potentially facilitating cover of that area.
- 7.2.4. The applicants have clustered their sheds, totalling 131 sqm, into the southwest corner of the site, which is the only section of the landholding to be adjacent to another dwelling. The appeal site with a stated area of 0.77 ha reads as larger than the neighbouring properties, with several alternative locations and better screening than the current location. No reason was given in the application or response to the appeal as to why the originally built stable structure and now storage structure is in the current location. This part of the site is served by a second access onto the local road by two gates, essentially allowing this section of the site to be independent from the immediate area of the dwelling house on the appeal site.
- 7.2.5. The response to the appeal sets out the fact that a family member on the site has a great interest in horses, that there are a number of stables within a 5 km radius, that such structures are part of a rural way of life and should be encouraged. The

response also states that the applicants are willing to comply with any conditions imposed.

7.2.6. In planning terms, the long term use of the structure must be considered and potential use by future occupants. I consider that while the application is stated for retention of a shed indicated for storage purposes, the structure has been clearly built as a stable, and retains three separate units which are served with their own openings and daylight and with a separate access to the local road. I consider it reasonable that the structure could be used as a stable at a future time, even for short term. While a condition may be imposed that the structure built as a stable may not be used for such, having regard to the Development Management Guidelines 2007, this is a matter that cannot be enforced with any ease. In my opinion, the conditions imposed by the PA are not readily enforceable as a use may commence, stop and recommence over time.

7.2.7. My view above is reinforced by considering that if an application for permission was made de novo for a new structure, I would consider it to read as a stable building rather than a storage shed and would not consider the location appropriate vis a vis the neighbouring property and potential future use. I also would not consider that a condition would be enforceable in that situation to restrict a designed stable building only to storage use and therefore I consider that the principle of the structure to be retained as built, in the specific location, as not acceptable and should be refused.

7.3. Impact on residential amenity of neighbouring property

7.3.1. In terms of visual impact on neighbouring property, I do not consider that the appellant has a right to a view from their house and I do not consider the structure to be retained as overbearing to the gable of the appellants home, owing to the distance and height. There is no overlooking of the appellants home and while there is overlooking of the appeal site by the appellant, it is of shed rather than the residential element of the appeal site and is therefore acceptable. The view of the shed from the appellants home could be mitigated by appropriate native planting which should not be leylandii. I do not consider there is any potential significant impact on daylight and sunlight owing to the height of the structure to be retained and the distance between the buildings.

7.3.2. In terms of potential impacts on the residential amenity of the appellants, the only home adjacent to the development, the issues raised relating to odour, noise, vermin and insects mainly relate to the use of the structure as a stable rather than storage. The PA have prohibited by way of condition any use for animals and any foodstuff storage which the applicant stated in the particulars (the applicants reference storage of hay). If the PA conditions were adhered to into the future, I do not consider that these issues in the appeal would arise. However, as above, I consider such conditions difficult to enforce and the fact the conditions are so detailed reiterates the difficulty of permitting an as-built stable being retained only as a storage particularly when there is such considerable storage already on the site. Having regard to the above, I consider that the structure as built has potential negative impact on the residential amenity on the adjacent dwelling.

7.4. Visual impact on the area

7.4.1. The High Scenic Amenity designation is noted. The area is characterised by sections of ribbon development along the local road. The applicants contend the small shed can be absorbed into the area and the planning authority consider the low height as satisfactory. The appellant considers the proposed development as ribbon development beside an existing storage area and that the scenic value of the area is damaged.

7.4.2. The location of the structure to be retained is on the higher end of the site set back from the public road. There is a very large and very high shed on the site clearly visible from the road (no dimensions of height and no elevation available in application drawings). Details of the original permission for a house and garage are not available. The appeal site is sloping land where the site slopes upwards and away from the public road to the south east. While the structure to be retained is set back from the public road, I consider that in combination with the existing large shed, dwelling house and home of the appellants, the proposed retention of an additional structure in this higher part of the site, creates an ad hoc and cluttered series of buildings which do not absorb sensitively into the receiving landscape which is designated as an area of High Scenic Amenity. In the winter, I consider that the group of buildings will be quite visible. The cumulative scale of the storage buildings does not enable assimilation into the landscape categorisation and accordingly I consider the proposed retention as contrary to the CDP planning policy N-PH-13.

7.5. Drainage

- 7.5.1. An open drain runs along the side of the structure to be retained on the appeal site boundary and runs downwards to the public road. There are no drawing details of the open channel, which is uncovered, and does not appear to be lined. I noted evidence of saplings seeding in the area. There is no obvious connection between the drain and any area beyond the road. No gutters are provided on the structure unlike the larger shed on the site and the orientation of the roof appears is designed to allow the surface water fall towards the drain which will in turn flow towards the road. Issues have been raised about the drain being blocked and potential for overflowing water to arise which are disputed by the applicant who states the drain has been discharging water without issue.
- 7.5.2. Owing to the size of the structure which will discharge water close to the drain, the lack of guttering and the proximity to the neighbouring property, I do not consider the proposed surface water drainage as optimum. If this was the only issue arising from the assessment, I consider it could be addressed by way of condition to be agreed with the planning authority.
- 7.5.3. Application for works
- 7.5.4. The application is not for retention and permission and is only for retention in the public notices. I note minor works are also proposed on the drawings/particulars and this issue has been raised in the appeal. As there is no restriction to imposing conditions on an application for retention, the PA have approved permission, subject to several conditions. If the Board is minded to disagree with this recommendation, I consider that the conditions of the planning authority as to the works proposed should have a date applied for compliance and a condition would be required for restriction of use and drainage details to be agreed.

7.6. **Appropriate Assessment Screening**

- 7.6.1. The appellant contends that the appeal site is in Special Area of Conservation. I concur with the PA and applicant that the appeal site is outside of the SAC, c.170 m north of the River Leannan SAC. The applicant has not provided an AA screening. The local road and lands to the north of the local road separate the appeal site from the SAC. As stated above, there is an open drain on the appeal site that terminates at the public road. The EPA mapping does not note the drain as a watercourse and

there are no direct hydrological pathways identified to the SAC. As this is an application for retention, an application that would require an NIS is not possible.

- 7.7. Having regard to the nature and scale of the proposed development (for retention of a structure for storage use), the absence of emissions therefrom, the nature of receiving environment, the distance from any European site, the absence of a pathway between the application site and any European site, it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

- 8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

1. Notwithstanding the proposed storage use of the structure to be retained, it was designed and continues to present as a stable structure rather than a storage shed. A large storage structure is already present on the site, and the Board is not satisfied that the retention of an additional structure as built will not be used as stable use in the future and would, therefore, negatively impact on the residential amenity of neighbouring property and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the overall size and configuration of the site, it is considered that the location of the structure to be retained, taken in conjunction with the large storage structure on the site and other buildings in the vicinity creates an ad hoc and cluttered series of buildings visible from the public road which is considered to interfere negatively with the character of the landscape designated as an area of High Scenic Amenity and therefore contrary to planning policy N-PH-13 of the County Donegal Development Plan 2018-2024.

I confirm that the report represents my profession planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

Rosemarie McLaughlin
Planning Inspector

26th August 2023