



An
Bord
Pleanála

Inspector's Report ABP-318449-23

Development	Permission for change of use of existing domestic garage to lawnmower repair shop and all associated works.
Location	Ballynamannan, Belturbet, Co. Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	23282
Applicant(s)	Kenneth Small.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Kenneth Small.
Observer(s)	N/A.
Date of Site Inspection	22 nd of May 2024.
Inspector	Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site is located within a rural area c. 1.5km to the south-west of Belturbet town centre along the L5520. The site is currently occupied by a detached dwelling and garage. Access to the site is provided to the local road to the east of the site (L5520). The existing pattern of development within the area is characterised by detached residential dwellings.

2.0 Proposed Development

- 2.1. The proposed development, as described within the public notices, seeks permission for change of use of existing domestic garage to lawnmower repair shop and all associated works at Ballynamanan, Belturbet.

3.0 Planning Authority Decision

3.1. Decision

Cavan County Council issued a notification of decision to refuse permission for the development in accordance with the following reasons and considerations:

Having regard to the proposed change of use of the existing domestic garage to a use as a lawnmower repair shop at this location, to consideration of the Cavan County Development Plan, incorporating the Cavan Town Local Area Plan (2022-2028) for Home Based Economic Activities – Objective HBED 01, it is considered that the development would adversely impact on the residential amenity of adjacent properties by way of increased traffic and noise and would be contrary to the said objective. The development is not considered to be in the best interest of proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's Report (18/10/24) : The report recommends that permission is refused for the development. The following provides a summary of the key points raised:

- The proposal is assessed in accordance with the development objectives set out within the CCDP on Home Based Economic Activities including Development Objective HBED 01.
- The report outlines that having regard to the nature of the development, the proposal is likely to result in noise generation and result in increased traffic to the site.
- Reference is made to significant machinery noise from the application site during the site inspection.
- The report concludes that having regard to the density of housing in the area and the concerns raised within the submissions on the application that the development would injure the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Environment Report (22/09/2024)

The report refers to information deficiencies within the application and recommends a request for further information in relation to the following:

- Details of water supply, wastewater treatment and percolation area, details in relation to the activities proposed on site, details of surface water drainage proposals, details of storage of fuel/oils, measures to ensure no unauthorised discharges to surface or groundwaters, maintenance programmes for spillage collection facilities.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Two third-party observations were submitted on the application from residents within the area. The following provides a summary of concerns raised within the observations:

- Impact of the proposal on air quality;

- Impact of the proposed commercial use on the residential amenities of the area;
- Impact on human health;
- Noise pollution associated with the operation of the development;
- Increased traffic and footfall;
- The submission from C. Burns refers to the permission relating to the garage (PA Ref: 21/778) and the requirements of Condition no. 5 of this permission which outlines that the garage shall be used for residential, commercial, industrial, business and trade purposes.
- The submission from C. Burns outlines that there is a shared access to the application with his property. It stated that there is insufficient parking within the site.
- Impact of dust and fumes from the development.
- Devaluation of property and impact on security of residential properties associated with increased footfall.
- The submissions raise concern in relation to storage and waste disposal and potential for impact on the adjoining stream.
- Potential for leakage/ spillage of fuels/chemicals to the adjoining residential property.

4.0 Planning History

The following planning history relates to the appeal site.

PA Ref: 21/778

Planning permission granted in August 2022 for a 2-storey extension and alternations to the existing dwelling and domestic garage.

Condition no. 5 of this permission relates to the use of the garage as follows:

The domestic garage shall be used for non-habitable ancillary domestic and private purposes only. The domestic garage shall not be used for any commercial, industrial, business or trade purposes.

Reason: in the interest of clarity, traffic safety and residential amenity.

5.0 Policy Context

5.1. Development Plan

Cavan County Development Plan, incorporating a Local Area Plan for Cavan Town (2022 – 2028)

- 5.1.1. The appeal site is located within a rural area to southwest of Belturbet, Co. Cavan. The rural area is classified as a Stronger Rural Area within the Appendix 21 of the Cavan County Development Plan 2022-2028. The Development Plan provides the following description of Stronger Rural Areas:

These areas are located around Cavan Town and in the South East of the County and exhibit characteristics such as;

- *Proximity to the immediate environs or close commuting catchment of Cavan, Navan and the Greater Dublin Area.*
- *Rapidly rising populations.*
- *Evidence of considerable pressure for housing development due to proximity to such urban areas or to major transport corridors with ready access to urban areas.*
- *Pressures on infrastructure such as local road networks, water supply etc.*

It is the aim of this Plan to facilitate the housing requirements of landowners and their immediate family only, subject to satisfying site suitability and technical considerations, whilst directing urban generated housing need in areas identified for housing in the adjoining towns and villages.

- 5.1.2. Section 12.4 of the Development Plan relates to Rural Enterprise and Economy. The following objectives are of relevance to the proposal:

- REE 01 Consideration shall be given to the establishment, or suitable expansion, of small-scale businesses in rural areas where (i) it is demonstrated that the proposal could serve as a valuable addition to the local

economy and (ii) normal development management and technical requirements are complied with;

- REE 02 Require proposals for the development, or suitable expansion, of small-scale businesses in rural areas to demonstrate that the proposed location is suitable and that the proposal would not be viable at an alternative location;
- REE 03 In accessing an application for the establishment, or suitable expansion, of a small-scale business in a rural area, the following information shall be taken into consideration and, where necessary, such required information shall be submitted as part of the application:
 - Positive contribution that the proposed development will make to the rural economy
 - Nature and scale of the proposal.
 - Is the business more suitably accommodated at the proposed location than an urban setting.
 - Potential impacts on public health, environment and amenity.
 - Potential traffic impact on the road network in the area.

5.1.3. Section 13.6.14 of the Plan relates to Home Based Economic Activity. The Plan outlines the following in this regard:

Home based economic activity is defined as small scale commercial activity carried out by residents of a house or persons main residence, being subordinate to the use of the house as a single dwelling unit and includes working from home. Proposals that adversely impact on existing residential amenity of the area by way of increased traffic, noise fumes, vibration, smoke, dust or odour will not generally be favourably considered.

The following Home-Based Economic Activity Development Objectives are of relevance:

HBED 01:

That applications of this nature have regard to the following:

- *The use remains ancillary to the main residential use and the applicant continues to reside in the dwelling;*
- *The effects on the amenities of adjoining occupiers, particularly in relation to hours of work, noise and general disturbance.*
- *Anticipated levels of traffic generated by the proposed development and the potential increased demand for parking*
- *Arrangements for the storage of refuse and collection of waste*
- *Activity which depends on visits by members of the public will be discouraged.*

HBED 02: Applications may be subject to a temporary permission, in order to enable the Planning Authority to monitor the impact of the development.

5.2. Natural Heritage Designations

The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:

- Lough Oughter and Associated Loughs SAC – 0.5km.
- Proposed Natural Heritage Areas: Lough Oughter and Associated Loughs – 0.6km.
- Slieve Rushen Bog NHA – 11.2km.

5.3. EIA Screening

The proposed development relates to change of use of an existing detached garage. The development does not constitute a project for the purposes of EIAR.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted in respect of the notification of decision of Cavan County Council to refuse permission for the development. The following provides a summary of the grounds of appeal.

- The appeal refers to health conditions of the applicant's family members and outlines that he needs to work close to home in the instance of a medical incident.
- The appeal outlines that the proposal relates to a small-scale business which provides a service to the local community.
- The appeal refers to the operation of the business i.e. by appointment only and the repair of the domestic equipment only happens during normal business hours.
- Local clients will not need to travel to urban areas to avail of this service.
- The appeal refers to Development Objective HBED 02 of the Cavan County Development Plan which refers to a temporary permission to monitor the impact of the development. The appeal outlines that the applicant would accept such a condition, despite it being onerous to his business.

6.2. Planning Authority Response

Cavan County Council provided a response to the grounds of appeal. The following provides a summary of the points raised:

- The contents of the appeal were examined, and it is stated that these were addressed under the original planning application within the planner's report. The appeal response outlines that the issues covered within the assessment including the following: planning policy for the consideration of home-based economic activities, home based economic activities development objectives, submissions lodged by neighbouring neighbours and nature of proposed activity.
- In addition to the above the appeal response outlines that the town of Belturbet is c.2km from the subject site and that the proposed use would be more suitably located at a premises located on appropriately zoned and serviced lands (General Enterprise and Employment).
- The Board is requested to uphold the decision of the Planning Authority.

7.0 Assessment

7.1. This is a first -party appeal against the notification of decision of Cavan County Council to refuse permission for the change of use of an existing domestic garage to a lawnmower repair workshop at Ballynamannan, Belturbet, Co. Cavan.

7.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues to be considered are as follows:

- Principle of Development & Compliance with Policy HBED 01

7.3. Principle of Development & Compliance with Policy HBED 01

7.3.1. The appeal site is located within an unzoned rural area c. 1.5km to the south-west of Belturbet town centre along the L5520. The application seeks permission for a change of use of the existing detached domestic garage (54 sq.m.) for use as a lawnmower repair workshop.

7.3.2. Cavan County Council issued a notification of decision to refuse permission for the development on the basis that the development would be contrary to Objective HBED 01 of the CCDP as it is considered that the development would adversely impact on the residential amenity of adjacent properties by way of increased traffic and noise. Such concerns are also raised within the submissions on the application.

7.3.3. Development Objective HBED 01 of the Development Plan outlines that following:

HBED 01:

That applications of this nature have regard to the following:

- *The use remains ancillary to the main residential use and the applicant continues to reside in the dwelling;*
- *The effects on the amenities of adjoining occupiers, particularly in relation to hours of work, noise and general disturbance.*
- *Anticipated levels of traffic generated by the proposed development and the potential increased demand for parking*

- *Arrangements for the storage of refuse and collection of waste*
- *Activity which depends on visits by members of the public will be discouraged.*

HBED 02: Applications may be subject to a temporary permission, in order to enable the Planning Authority to monitor the impact of the development.

7.3.4. I consider the proposal in line with each of the criteria set out within Development Objective HBED 01 as follows:

- *The use remains ancillary to the main residential use and the applicant continues to reside in the dwelling.*

7.3.5. The appeal site is occupied by a detached 2 storey dwelling and a detached garage. The application relates to change of use of an existing detached garage to a lawnmower repair workshop. The existing garage is located to the north of the applicant's dwelling and has a stated area of 54 sq.m.

7.3.6. The application documentation outlines that the applicant fixes lawnmowers on a part time basis for neighbours and community groups and provides an important service for the local community. The appeal response outlines that the applicant has a requirement to work near his family home and cites medical conditions of family members.

7.3.7. On the basis of the information set out within the application and having undertaken a site visit I am satisfied that the development would be classified as a small-scale local enterprise which generates employment and provides a service to the local community. I consider that the proposed use would remain ancillary to the main residential use of the house and that the applicant would continue to live within his dwelling.

- *The effects on the amenities of adjoining occupiers, particularly in relation to hours of work, noise and general disturbance.*

7.3.8. Cavan County Council's reason for refusal raises concern in relation to the impact of the development on the residential amenity of existing dwellings in the vicinity of the site and cites specific concerns in relation to noise impact in this regard. The site is located within an unzoned rural area and the existing character of development within the vicinity of the site is primarily residential. Concerns in relation to the noise

impact of the development are raised within the submissions on the planning application.

7.3.9. I consider that there is limited detail within the application in relation to the proposed operation of the workshop i.e. number of lawnmowers serviced per week, equipment used to service the lawnmowers and potential noise impact associated with same. Notwithstanding this, on the basis of the information provided and having regard to the size of the shed I do not consider that the workshop represents a large-scale commercial enterprise which would result in significant noise emissions. I consider that conditions can be imposed on hours of work and noise standards to be adhered to at nearest noise sensitive receptors and noise monitoring.

7.3.10. I refer to the requirements of Development Objective HBED 02 of the CCDP which outlines that applications may be subject to a temporary permission, in order to enable the Planning Authority to monitor the impact of the development. The first party appeal outlines that, notwithstanding the onerous nature of such a condition, the applicant would be willing to accept a permission for temporary permission to facilitate monitoring of the proposed use in the event of a grant of permission. In this current instance I recommend a temporary duration of 2 years on the use to allow for monitoring of potential impacts on residential amenity.

7.3.11. In terms of hours of work I am satisfied that the use of the workshop could be restricted to day-time hours only by means of condition.

- *Anticipated levels of traffic generated by the proposed development and the potential increased demand for parking*

7.3.12. CCC's reason for refusal raises concern in relation to traffic impact associated with the development. I note that the observations on the application raise concern in relation to access to the site, traffic impact associated with the proposed unit and insufficient parking. I have had regard to the concerns raised in this regard in the assessment of the appeal.

7.3.13. Access to the existing residential dwelling on site is provided via a gated entrance from the L5520 to the east of the site. The L5520 runs in a straight alignment in the vicinity of the site and I do not consider that there are restrictions to visibility at the existing entrance. In terms of traffic impact, I do not consider that the proposal represents a scale or format of development which would result in significant traffic

impact on the local road network. I furthermore note that the appeal response outlines that the workshop will be run by appointment only. I consider that this arrangement would negate against excessive traffic movements to the site. Within the site, I consider that there is sufficient space for parking and manoeuvring of vehicles. I consider that this would negate again overspill onto the adjoining road network.

7.3.14. In conclusion, I am satisfied that access arrangements and car parking provision on site are acceptable, and I do not consider that the development represents a scale or format of development which would result in significant traffic impact on the adjoining road network.

- *Arrangements for the storage of refuse and collection of waste*

7.3.15. I refer to the report on file from the Environment Section in Cavan County Council which recommends a request for further information in respect of the development in relation to the following.

- Details of water supply, wastewater treatment and percolation area, details in relation to the activities proposed on site, details of surface water drainage proposals, details of storage of fuel/oils, measures to ensure no unauthorised discharges to surface or groundwaters, maintenance programmes for spillage collection facilities.

7.3.16. I note that concerns in relation to spillages and pollution on site are also raised within the submissions on the application. I am satisfied that the points raised in relation to the operation of the facility can be addressed by means of condition requesting details of the management of the operation to be subject to written agreement in the instance that the Board is minded to grant permission for the development.

- *Activity which depends on visits by members of the public will be discouraged.*

7.3.17. In this regard I note that the proposed development seeks permission for change of use to a domestic garage to a lawnmower repair workshop. The premises shall be operated by appointment only and shall not be accessible to visiting members of the public.

Conclusion

7.3.18. On the basis of the above, I consider that the principle of the proposed change of use is acceptable at this location subject to conditions. I consider that the proposal is small scale in nature and do not consider that the proposal is contrary to the provisions of Development Objective HBED 01 of the CCDP or any other relevant provisions of the Plan including REE 01, REE02 and REE 03. I recommend a temporary permission for the proposed use to enable monitoring of noise levels from the proposed use in accordance with the requirements of Policy HBED 02.

8.0 AA Screening

- 8.1. I have considered the proposed change of use in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in an unzoned rural area where the closest Natura 2000 site is the Lough Oughter and Associated Loughs SAC which is located c. 500m from of the appeal site.
- 8.2. The proposed development comprises change of use of an existing domestic garage to a lawnmower repair workshop. No nature conservation concerns were raised in the planning appeal with respect to Natura 2000 sites.
- 8.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- The nature of development which relates to change of use of an existing garage.
 - The lack of proximity between the appeal site and any Natura 2000 site and the lack of direct connections between same.
- 8.4. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.5. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that permission is GRANTED for the development in accordance with the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the provisions of the Cavan County Development Plan, incorporating the Cavan Town Local Area Plan 2022-2028, to the location of the site, the scale and nature of development, it is considered that subject to compliance with the conditions set out below, the proposed development would not affect the residential amenities of the area, would not be prejudicial to public health or constitute a traffic hazard, would constitute an acceptable use at this location and would be in accordance with the provisions of the development plan and the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application on the 25th of August 2023 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. This permission shall apply for a period of two years from the date of this decision. The use shall cease unless prior to the end of the period planning permission has been granted for the use.

Reason: To enable the impact of the proposed development to be monitored and reassessed in accordance with Development Objective HBED02 of the Cavan County Development Plan 2022-2028.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to use as a lawnmower repair workshop (as specified in the lodged

documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity.

4. The operation of the proposed lawnmower repair workshop shall comply with the following:
 - (a) The hours of operation for the facility shall be as follows Monday to Friday 09:00 to 18:00 hours, Saturday 10:00 to 13:00 hours and closed Sundays and bank holidays.
 - (b) Drop off and collect of lawnmowers shall be strictly by appointment only.
 - (c) All repair works shall strictly be carried out within the workshop.

Reason: To protect the residential amenities of properties in the vicinity of the site.

5. Prior to the commencement of development, the developer shall submit a management plan for the operation of the facility for written agreement of the planning authority. The management plan shall specifically addresses the following:
 - (a) Details of equipment used within the workshop and noise levels associated with same.
 - (b) Proposals for storage, management and disposal of any fuel/oils to be used as part of the development.
 - (c) Details of any hydraulic and biological loading from the workshop and assessment of existing wastewater treatment system to accommodate same.
 - (d) Details of measure to ensure that there are no discharges to surface or groundwater associated with maintenance and refuelling activities.

Reason: In the interest of public and environmental health and to ensure a proper standard of development.

6. Prior to the commencement of development, the developer shall submit detail of water supply and drainage for the premises for written agreement of the

planning authority. Water supply and drainage arrangements including the disposal of uncontaminated surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

7. Uncontaminated surface water run-off from roofs and cleaned paved areas within the development shall be collected and disposed of to the surface water drainage system in accordance with the plans and specifications submitted.

Reason: In the interest of public health and environmental sustainability.

8. Visual examination of the surface water drainage system shall be carried out weekly. A log of such inspections shall be maintained. In the event of observations on reduced quality or appearance of the water quality the developer shall put in place measures to prevent further contamination and notify the Planning Authority within 24 hours of identification of reduced quality /appearance of surface water.

Reason: In the interest of public health.

9. The noise levels from within the existing boundary of the development shall not exceed 55dB(A) (15 minutes LAeq) at any point along the boundary of the development between the hours of 0800 hours and 2000 hours. At all other times the noise levels shall not exceed 45dB(A) (15 minutes LAeq).

Reason: To protect residential amenities of property in the vicinity.

10. Noise monitoring shall be undertaken on a quarterly basis and submitted to the Planning Authority.

Reason: In the interests of public health and residential amenity.

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.

Stephanie Farrington
Senior Planning Inspector

12th of June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318449-23		
Proposed Development Summary	Permission for change of use of existing domestic garage to lawnmower repair shop and all associated works.		
Development Address	Ballynamannan, Belturbet, Co. Cavan		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No X	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____