



An  
Bord  
Pleanála

## Inspector's Report ABP-318791-24

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Retention of a prefabricated unit for storage use with hardstanding areas surrounding the structure and all associated works. |
| <b>Location</b>                     | Drumlaney, Redhills, Co. Cavan, H14 PK29  |
| <b>Planning Authority</b>           | Cavan County Council  |
| <b>Planning Authority Reg. Ref.</b> | 2360217   |
| <b>Applicant(s)</b>                 | Eugene Mc Caul  |
| <b>Type of Application</b>          | Retention   |
| <b>Planning Authority Decision</b>  | Refuse  |
| <b>Type of Appeal</b>               | First Party   |
| <b>Appellant(s)</b>                 | Eugene Mc Caul  |
| <b>Observer(s)</b>                  | None  |
| <b>Date of Site Inspection</b>      | 01 <sup>st</sup> of March 2024  |
| <b>Inspector</b>                    | Karen Hamilton  |

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## **1.0 Site Location and Description**

- 1.1. The site consists of a prefabricated unit on a small hard cored site, along the east of the N54, Butlersbridge to Clones Road, Co. Cavan. The site is accessed directly from the N54 and includes a laneway which provides access for a telecommunications mast located to the west of the site. The prefabricated shed is set into the site and has an independent access from the N54.
- 1.2. The site is located to the north of the applicant's dwelling. The dwelling is a large one-off dormer dwelling with large front and side gardens running along the boundary of the N54, up to the subject site. Access into the applicant's dwelling is separate from the subject site and is also from the N54, to the south of the site.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the following:
  - Retention of a prefabricated unit for storage use with hardstanding area surrounding the structure;
  - Relocation of the entrance into the private garden of the dwelling to the south of the site;
  - Replacement of the existing gate with timber fencing along the N54;
  - Planting of new laurel hedge for screening along the edge of the N54;
  - and all associated works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Decision to refuse for the following reasons:

1. Taking into consideration the nature, appearance, form and character of the structure to be retained, the extent of hardstanding on the site leading to an independent entrance from the public road, and its location which is not considered to be within the natural attendant grounds of the dwelling, it is

considered that the proposed development would lead to haphazard, disorderly and poorly integrated development within the site that would materially contravene Objectives DGS 01, DGS 03 and DGS 04 of the Cavan County Development Plan 2022 – 2028, would have an adverse visual impact on an open site against the public road contrary to the rural character and amenity of the area, and would set an undesirable precedent for development of a similar nature. The proposed development is, therefore, considered contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would likely give rise to additional traffic movements accessing and egressing the site from one or more existing entrances to the site from the public road where suitable sightlines have not been demonstrated, creating an adverse impact on the operational safety of a national road where the maximum permitted speed limit applies and would therefore, in the opinion of the Planning Authority, be at variance with national policy in relation to the control of frontage development on national roads as set out in the Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG, January, 2012). The development is therefore considered contrary to National Roads Objectives NR 01, NR 02, NR 04, NR 05 and NR 08 of the Cavan County Development Plan 2022 – 2028.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the area planner reflects the decision to refuse permission for the retention of the structure and is summarised below:

- The prefabricated structure is unauthorised and the subject to an enforcement notice dated 16.03.2023.
- The site is accessed onto the N54, and the entrance gates are also unauthorised.
- The proposed access is through a set of authorised gates and across a right of way for the telecommunications mast.

- It is stated the use is for storage ancillary to the applicant's domestic dwelling.
- The roadside entrance will only be used for occasional maintenance of the grounds.
- The visual impact of the structure is not acceptable along the national road and the proposed planting will only partially screen the site.
- The structure is not within the natural attendant grounds of the dwelling.
- Two internal road reports have expressed serious road safety concerns in relation to the entrance into the site.
- The TII submission states the proposal would have an adverse impact on the national road safety.
- The proposal would give rise to intensification of the site, irrespective of the sightlines permitted to access the development.
- The planning history (Reg Ref 04/2175) includes a refusal as sightlines 240m in each direction were unachievable.

### 3.2.2. Other Technical Reports

Municipal District Engineer: Recommend refusal and a further information request.

Roads Design Department: Recommend both a refusal and request additional information.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland (TII): Recommend a refusal of permission. The submission is summarised below;

- The application is at variance to the policy outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) in relation to the control of development along national roads.
- The proposal would create an adverse impact on the national road where the maximum permitted speed limit applies and be at variance with the foregoing national policy in relation to control of frontage development on national roads.

- There is insufficient data in the application to demonstrate the proposal will not have a detrimental impact on the capacity, safety, or operational efficiency of the national road network in the vicinity.

### 3.4. **Third Party Observations**

None submitted.

## 4.0 **Planning History**

There is an extensive planning history on the site and the adjoining site relating to both the existing dwelling and telecommunications mast to the east of the site.

### 4.1.1. Dwelling

The applicant got permission in 1996 (Reg Ref 96/835) to renovate a derelict building and further in 1998 to erect an extension (Reg Ref 98/54) and again in 2005 (Reg Ref 05/1565).

#### **Reg Ref 04/2175**

Refusal to alter and extend the dwelling for reasons of inadequate sightlines.

### 4.1.2. Telecommunications mast

#### **PL02.244637 (Reg Ref 14/200)**

O2 Communications Ireland permission for continued use and a financial contribution was removed following appeal to the Board.

#### **Reg Ref 04/1379**

O2 Communications Ireland permission to continue use of tower for 5 years.

#### **Reg Ref 09/180**

Telefonica O2 permission to continue use of tower for 5 years.

#### **Reg Ref 99/22**

Permission to Esat Digifone Ltd to erect a 30m high antennae support for 5 years.

## 5.0 Policy Context

### 5.1. National Policy

#### 5.1.1. Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG 2012)

- Section 1.5: Intensification of existing access to national roads gives rise to the generation of additional turning movements.
- The key aim of the guidance is to protect the strategic function of the national roads network.

### 5.2. Cavan County Development Plan 2022-2028

#### 5.2.1. Domestic Garage/Shed/Store

Section 13.5.7: Domestic Garage/Shed/Store Domestic garages, sheds and stores are generally an acceptable form of development in rural and urban areas. It is policy that their form, design and materials are ancillary and consistent to the main dwelling and that they are located on site so as not to create a negative visual impact.

Industrial type designs and finishes shall not be permitted. Domestic garages, stores and sheds shall be permitted for uses ancillary to the main dwelling.

#### Development Objectives

- DGS 01 The design, form and materials should be ancillary to and consistent with the main dwelling on site.
- DGS 02 Structures should generally be detached and sited to the rear or side of the dwelling house and be visually subservient in terms of size, scale and bulk.
- DGS 03 Structures should be used solely for purposes incidental to the enjoyment of the dwelling and not for any commercial, manufacturing, industrial use or habitable space in the absence of prior planning consent for such use.
- DGS 04 One detached domestic garage only shall be permitted for any single dwelling. Domestic garages shall be of reduced height, domestic in

appearance and in character with the main dwelling. Carports shall normally only be permitted to the rear of a dwelling or where they are incorporated into the design of the dwelling that does not add visual intrusion to the dwelling.

#### 5.2.2. Road Infrastructure

##### National Road Development Objectives

- NR 01 Maintain and protect the safety, capacity and efficiency of National roads and associated junctions in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities, DECLG (2012)
- NR 02 Protect national roads from inappropriate access in order to protect the substantial investment in the national road network, to preserve the carrying capacity and safety of the National Road Network
- NR 05 To protect the capacity, efficiency and safety of the national road network in County Cavan by complying with the 'Spatial Planning and National Roads - Guidelines for planning authorities' (2012). NR 08 Seek to safeguard the capacity and efficiency of the national road network draining systems in County Cavan.

#### 5.2.3. Designated Sites

##### Development Objectives for Designated Sites

- NHDS1 Protect and conserve Special Areas of Conservation, Special Protection Areas, Natural Heritage Areas and proposed Natural Heritage Areas.
- NHDS 2 Ensure an Appropriate Assessment is carried out in respect of any plan or project not directly connected with or necessary for the management of the site but likely to have a significant effect on the integrity of a European Site(s), either individually or in-combination with other plans or projects, in view of the site's conservation objectives.

### 5.3. Natural Heritage Designations

The site is located to the north, adjacent to Lough Oughter and Associated Loughs SAC (site code 00007).

#### 5.4. EIA Screening

Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### 6.0 The Appeal

#### 6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal are submitted by the applicant in relation to the reasons for refusal as summarised below:

##### Reason for refusal No. 1

- The applicant's portfolio includes all the lands within the natural attendant grounds.
- The site has been developed on a gradual basis over the years and improvements can be viewed from Goggle Street Maps.
- The proposal includes the connection of the site with the dwelling and planting along the roadside boundary fence.
- It is proposed to grade the excavated soil heap into the hillside and provide additional planting to the side and rear of the storage unit.
- The extension of hardstanding leading to the entrance should not be an issue for refusal.
- Reference is made to DG01, DG03 and DG04 in the appeal. The applicant only wants to enhance his property.

##### Reason for refusal No 2

- The roadside access has been subject to several planning applications over the years and there is a fully established entrance for access to the telecommunications mast/tower:
  - Reg Ref 99228

- Reg Ref 09180
- Reg Ref 14200
- The most recent grant of permission in 2015 states in condition no 6 that the entrance should be treated (and maintained) to provide an adequate hard standing area for vehicles using the entrance in accordance with the Road Safety Audit Report.
- The applicant is obliged to maintain the access in accordance with the planning permission and a legal agreement with Telefonica (now Celinex Telecom company). This includes the hardstanding area.
- There were no restrictions of access in the telecommunications application and the applicant has always used this access for their site.
- The prefabricated structure would not give rise to any additional traffic movements, is for domestic use, and would not give rise to any intensification.
- The Board dealt with an appeal of a condition for the mast.

## **6.2. Applicant Response**

The applicant is the appellant.

## **6.3. Planning Authority Response**

A response from the PA notes the decision to refuse permission for retention. It is not considered the appeal includes any new information which would justify a different outcome. It is requested the Board uphold the reasons for refusal.

## **6.4. Observations**

None received.

## **7.0 Assessment**

The main issues of the appeal can be dealt with under the following headings:

- Reason for Refusal No 1: Impact on Visual Amenity

- Reason for refusal No 2: Site access along the N54
- Appropriate Assessment

### **7.1. Reason for refusal No 1: Impact on the Visual Amenity.**

- 7.1.1. The proposal is for the retention of an existing prefabricated unit (c. 42m<sup>2</sup>) for storage use. The unit is c. 12m long, c. 4m wide and c. 2.4m high and is finished with a steel sheeting. The prefabricated unit is located on a section of hardstanding which adjoins an access road for a telecommunications mast. The applicant owns the site, has a legal agreement to maintain the access for the telecommunications operator and lives in the dwelling to the south of the site. The applicant's garden adjoins the site.
- 7.1.2. The first reason for refusal relates to the visual impact of the prefabricated unit. The planning authority considered the unit, in combination with the hardstanding area, would have a negative visual impact on the rural character and amenity of the area and set an undesirable precedent for development of a similar nature. The report of the area planner notes Objectives DGS 01, DGS 03, and DGS 04 of the Cavan County Development Plan 2022 – 2028 and considered the proposal would materially contravene these objectives. The report of the area planner considered the nature, appearance, form, and character of the structure was acceptable.
- 7.1.3. The grounds of appeal note the location of the site, directly adjacent to the curtilage of the applicant's dwelling and considers the site is within the attendant grounds of the house. The applicant notes the proposed planting along the boundary side and the proposal to grade the excavated soil heap into the hillside and provide additional planting. Reference is made to the development plan objectives in the reason for refusal and the applicant states they have only ever wanted to enhance their property.
- 7.1.4. The applicant states the proposal is for storage purposes ancillary to the private residence to the south of the site. I note the most recent permission for the telecommunications mast Reg Ref 14/200 and the structure was not included on the site layout maps. As stated above, the building is c. 42m<sup>2</sup> and finished with a grey steel sheeted finish. The structure is currently visible from the N54 and has a commercial appearance. The commercial appearance is further exaggerated by the

extensive hard cored area from the edge of the road (N54), into the entrance and around the prefabricated building.

7.1.5. The Cavan County Development Plan 2022-2028 includes policies and objectives for the design of domestic garages, sheds, and stores. The guidance states that these should be an acceptable form, design, and materials consistent with the main dwelling and appropriate for the setting within the rural or urban area. This is highlight in development objectives DGS01 and DGS02 detailed below:

- DGS 01 The design, form and materials should be ancillary to and consistent with the main dwelling on site.
- DGS 02 Structures should generally be detached and sited to the rear or side of the dwelling house and be visually subservient in terms of size, scale, and bulk.

7.1.6. The applicants dwelling is a standard detached dormer dwelling, finished with dry dash and Upvc windows. Guidance in the development plan for domestic buildings requires that proposals are consistent with the main dwelling and visually subservient in terms of size, scale, and bulk. I note the prefabricated unit is not consistent with the size, scale or bulk of the dwelling and as stated above, the external materials are of a commercial nature, rather than domestic. I do not consider the prefabricated unit has the appearance of an ancillary domestic structure and its location, set away from the dwelling, prevents adequate integration with the domestic property.

7.1.7. The grounds of appeal state that the prefabricated unit will be screened from the road by planting of a laurel hedge and the existing gates replaced with timber fencing. The scale of the portacabin is significant for a domestic shed and even with the planting of a laurel hedge along the N54, I consider there is potential it would remain visible from the surrounding area. This aside, any planting or replacement of boundary treatment would not overcome any concerns in relation to the size, scale, bulk, and external materials of the portacabin.

7.1.8. Having regard to the location of the site, detached from the applicants dwelling and the design, scale, bulk and external materials of the portacabin I do not consider the proposal complies with policy objectives DGS01 and DGS02 of the Cavan County Development Plan 2022-2028 and the proposal has a negative visual impact on the

existing dwelling and the surrounding area. I consider the proposal for retention should be refused for this reason.

## **7.2. Reason for Refusal No 2: Site Access along the N54**

- 7.2.1. The site is located to the east of the N54 and is accessed directly from the side of the road, via an agricultural gate. There is an adjoining access from the N54 for a telecommunication mast to the west of the site. This access is in the ownership of the applicant and managed by the applicant for the purpose of maintenance access for the mast. The entrance off the N54 is hard cored and the access to the mast is temporary in nature, via a rural field.
- 7.2.2. The second reason for refusal relates to the location of the site along the N54 and the absence of adequate sightlines. It is considered the proposed access into the site would be at variance to national policy on national roads and therefore contrary to the policy of the development plan which requires the protection of the national road network.
- 7.2.3. The grounds of appeal consider that the planning history for the site has established the access into the site and refer to condition no 6 of Reg Ref 14/200 which states that the entrance should be treated (and maintained) to provide an adequate hard standing area for vehicles using the entrance in accordance with the Road Safety Audit Report. The applicant states they are obliged to maintain this access for the telecommunication mast company and the prefabricated structure does not give rise to an additional traffic movement. They also state that the use of the structure is for domestic purposes and would not give rise to any intensification.
- 7.2.4. TII, and the Roads Design team and Municipal District Engineer in Cavan County Council have made submissions on the application. The submissions recommend either additional information or that the permission be refused for reasons of impact on the N54. TII submission states that insufficient information is contained within the application to demonstrate the proposal would not have a negative impact on the national road and would be at variance to the national policy contained Spatial Planning and National Roads Guidelines for Planning Authorities (2012) in relation to the control of development along national roads. The Memo from the Roads Design team notes the applicant proposes that the site will be accessed from their garden,

includes images of the site from gogglemaps (2019) and requests the applicant provide clarification on the impact of the proposal on the safety or operational capacity of the N54. The Municipal Engineer notes the absence of any sight lines for the road and recommends a refusal of permission, has concerns the laurel hedging would impact any sightline and the absence of any surface water treatment for the hardstanding.

- 7.2.5. National and local policy for national roads require that access onto these roads is restricted to protect the strategic nature of the function and design. The N54 provides access between the north and south and is an extremely busy road with a national speed limit. Policy NR 01, NR 02 and NR 05 of the Cavan County Development Plan require the implementation of the national policy at a local level as necessary to protect the safety, capacity and efficiency of the N54, and other national roads.
- 7.2.6. The applicant has stated they do not propose to use the existing entrance to access the prefabricated building and proposed to replace the galvanised gates with a timber fence. Access is proposed through the applicant's garden. I note this access would not allow vehicular access as the applicant's entrance to their dwelling is further south, along the N54. As stated above, the works to the site include extensive hard-core area and the prefabricated structure is significant in scale. I would have concerns that any storage use with the building would require an element of vehicular access.
- 7.2.7. I note the Road Safety Audit which accompanied the most recent permission for the telecommunications mast states that the site would be accessed c. twice per year by maintenance crews. Safety issues related to the growth of vegetation along the boundary beside the road as this growth would reduce visibility for road users.
- 7.2.8. The applicant cannot provide sufficient sight lines necessary for a satisfactory vehicular access into the site and as stated in the MD report the laurel planting along the boundary of the site, would impair visibility of road safety users at this location. The applicant notes that access has already been established for the telecommunication mast although I note the road safety audit refers to a maintain visit of c. 2 times per year. The use of this prefabricated building as a storage unit would generate additional turning movements and would be intensification. I do not

consider the use of the entrance for the mast sufficient to allow additional access into the site.

- 7.2.9. Therefore, having regard to the scale and design of the prefabricated structure, the potential for vehicular access and the location of the site along the N54 and the absence of adequate sightlines for access, I have serious concerns the proposal would have a significant adverse impact on the road uses of the N54. In this regard I consider the proposal would have a significant adverse impact on the carrying capacity of the N54 and would be contrary to the policies and objectives of the national policy for appropriate access to national roads and the local policy with regard the protection of the capacity, safety, and efficiency of the national road network. I consider the proposal should be refused for this reason.

### 7.3. **Appropriate Assessment**

- 7.3.1. The subject site is located on a site to the north of Drumlaney Lough which forms part of the Lough Oughter and Associated Loughs SAC. The qualifying criteria for Lough Oughter and Associated Loughs SAC<sup>1</sup> are listed below.
- Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150]
  - Bog woodland [91D0]\* priority habitat
  - *Lutra lutra* (Otter) [1355]
- 7.3.2. The conservation objectives include the restoration of the loughs to a favourable conservation condition and to maintain the favourable conservation condition of the bog woodland and Otter *Lutra lutra*.
- 7.3.3. The proposed retention of the prefabricated building does not include any servicing of the site. The building could be removed without undue impact on the adjoining SAC. Having regard to the small scale of the proposed development and to the absence of any direct pathway from the site to the designated sites I consider that the proposed development individually, or in combination with any other plans or projects, would not be likely to have any significant effect on any European Site.

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<sup>1</sup> <https://www.npws.ie/protected-sites/sac/000007>

## 8.0 Recommendation

- 8.1. I recommend that planning permission should be **refused** for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. Taking into consideration the nature, appearance, form and character of the structure to be retained, the extent of hardstanding on the site leading to an independent entrance from the public road, and its location which is not considered to be within the natural attendant grounds of the dwelling, it is considered that the proposed development would lead to haphazard, disorderly and poorly integrated development within the site that would materially contravene Objectives DGS 01, DGS 03 and DGS 04 of the Cavan County Development Plan 2022 – 2028, and would have an adverse visual impact on an open site against the public road contrary to the rural character and amenity of the area. The proposed development is, therefore, considered contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would likely give rise to additional traffic movements accessing and egressing the site from one or more existing entrances to the site from the public road where suitable sightlines have not been demonstrated, creating an adverse impact on the operational safety of a national road where the maximum permitted speed limit applies and would therefore, be contrary to national policy in relation to the control of development on national roads as set out in the Spatial Planning and National Roads Guidelines for Planning Authorities (DoECLG, January, 2012). Having regard to the potential adverse impact on the N54, the development would be contrary to National Roads Objectives NR 01, NR 02, and NR 05 of the Cavan County Development Plan 2022 – 2028 and the proper planning and sustainable development of the area.

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.

---

Karen Hamilton  
Senior Planning Inspector

04<sup>th</sup> of March 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

|   |   |                  |   |
|---|---|------------------|---|
| <b>An Bord Pleanála<br/>Case Reference</b>  |   |                  |   |
| <b>Proposed Development<br/>Summary</b>   | Retention of a prefabricated unit for storage use with hardstanding area surrounding the structure and all associated works |                  |   |
| <b>Development Address</b>  | Drumlaney, Redhills, Co. Cavan  |                  |   |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings)  |   | <b>Yes</b>       |   |
|   |   | <b>No</b>        | No further action required                  |
| <b>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?</b>   |   |                  |   |
| <b>Yes</b>  |   |                  | EIA Mandatory<br>EIAR required              |
| <b>No</b>   |   |                  | Proceed to Q.3                              |
| <b>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]?</b> |   |                  |   |
|   |   | <b>Threshold</b> | <b>Comment<br/>(if relevant)</b>            |
|   |   |                  | <b>Conclusion</b>                           |
| <b>No</b>   |   | N/A              | No EIAR or Preliminary Examination required |
| <b>Yes</b>  |   |                  | Proceed to Q.4                              |

**4. Has Schedule 7A information been submitted?**

|            |  |   |
|------------|--|---|
| <b>No</b>  |  | <b>Preliminary Examination required</b> |
| <b>Yes</b> |  | <b>Screening Determination required</b> |

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_