



An
Bord
Pleanála

Inspector's Report ABP-321958-25

Development	Retention of a standalone building, permission for alterations for changes to rear elevation and all associated site works.
Location	Site 1, An Eacharas, Moynsha, Abbeyfeale, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	2460706
Applicant(s)	Thomas O' Brien
Type of Application	Permission for retention and Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Thomas O'Brien
Observer(s)	none
Date of Site Inspection	10 th April 2025
Inspector	Aisling MacNamara

1.0 Site Location and Description

- 1.1. The site contains an existing detached single storey house located in the rural area of Moynsha, located c 0.9km northeast of Abbeyfeale in County Kerry, near the Kerry Limerick county border. The site is accessed via a shared entrance and access road from the R555 regional that serves a small cluster of other residential properties. To the rear of the house is a single storey structure that is the subject of this appeal. The house is adjoined by residential properties to the west and southwest, the R555 to front boundary and agricultural land to the southeastern side.

2.0 Proposed Development

- 2.1. The proposed development is for the following:
- Retention of a standalone building to the rear of existing dwelling, partially used as domestic shed incorporating home office and storage area and partially used as plant room in conjunction with the existing dwelling. The cover letter submitted with the application states the applicant wishes to use 69.86sqm for domestic shed and the remainder 13.14sqm as plant room in conjunction with the existing dwelling (which would alleviate the necessity to construct a new building to use as plant room as previously intended).
 - Permission for alterations to the rear elevation of the domestic shed, comprising removal of a window on the rear elevation to plant room and replacement with a proposed external access door and the removal of the existing internal door to the plant room and construction of wall in its place.
 - Associated site works

The area of the site is 0.28ha

As stated on the application form, the floor area of existing buildings is 226.81sqm and the floor area to be retained is 81.01sqm.

3.0 Planning Authority Decision

3.1. Decision

By order dated 31st January 2025, the planning authority made the decision to refuse retention permission / permission for the following reason:

- 1. The domestic storage shed to be retained contravenes Section 1.5.10.9 of the Kerry County Development Plan 2022-2028, which indicates the maximum floor area for sheds / garages is 70sqm. The development to be retained and the precedent that a grant of retention permission would set, would seriously injure the amenity of the area and would be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- First report of the Case Planner dated 13/11/2024 recommends further information be requested.
- Further Information requested on 13/11/2024 on one item, to allow for a site inspection to be carried out by the planning authority. Response received on 28/11/2024 to arrange inspection.
- Clarification of further information requested on 19/12/2024 one item, indicating that access to building was not permitted and new inspection required. Response received 08/01/2025 to arrange inspection.
- Second report of Case Planner dated 29/01/2025 recommends refusal of retention permission / permission as per the decision. The report notes that CDP policy specifies that ancillary structures for domestic storage is capped at 70sqm. This is a structure measuring 94.83sqm. The structure is larger than what is indicated on the application form at 81.01sqm. The structure at present is not being used as per the internal floor plan drawings submitted as evident at time of internal inspection – there is no office, plant room or WC. Refusal recommended as it contravenes policy 1.5.10.9 Sheds / Garages / Structures of CDP.

3.2.2. Other Technical Reports

- Enforcement Unit – decision due
- Environmental Assessment Unit – no EIA or determination required, no AA required.
- Roads – recommend grant

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

24/60221 – Split decision - July 2024 – GRANT of retention of front boundary walls as constructed and REFUSE for retention of construction of domestic shed incorporating home office and storage to rear for one reason – (i) contravenes section 1.5.10.9 of CDP which indicates maximum floor area of 70sqm for sheds / garages, precedent would injure amenities of the area.

05/1 – GRANT – permission for 7 no. single storey dwellings with effluent treatment units and percolation areas to each house and access service roads

5.0 Policy Context

5.1. Development Plan

The Kerry County Development Plan (CDP) 2022-2028 is in place.

Site is within a rural area under urban influence.

Volume 1 Written Statement

KCDP 5-2 *Protect and promote the sense of place and culture and the quality, character and distinctiveness of the rural landscape that make Kerry's rural areas authentic and attractive places to live, work and visit*

KCDP 5-15 *In Rural Areas under Urban Influence applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need based on their social (including lifelong or life limiting) and / or economic links to a particular local rural area, and in this regard, must demonstrate that they comply with one of the following categories of housing need: a) to e)*

Preference shall be given to renovation/restoration/alteration/extension of existing dwellings on the landholding before consideration to the construction of a new house.

Volume 6 Development Management Standards

1.1 Introduction

Strategic Objectives

- *To implement the policy objectives and provide the physical framework of the Development Plan to realise the strategic objectives of this Development Plan and ensure the proper and sustainable development of Co. Kerry*
- *To require all new development proposals to comply with the relevant standards identified in this Development Management Chapter across the entire Planning Authority area of Kerry County Council.*

1.4 Design General

1.4.1 Performance-based criteria

The council may consider applying flexibility in the application of development standards where performancebased criteria appropriate to the location result in high-quality design outcomes. For example, exceptions to prescribed standards set out in various guidelines may be considered in relation to the redevelopment of brownfield/regeneration sites. Flexibility will only be permissible in response to well-designed development proposals

1.5.10 Standards for Residential Development in Rural and Non-Serviced Sites

1.5.10.4 Design

New dwellings prepared in the rural area shall have regard to 'Building a House in Rural Kerry – Design Guidelines', Kerry County Council, 2009 (or any subsequent guidance document).

1.5.10.9 Sheds/garages/ancillary structures

Notwithstanding those developments listed under Class 3, Schedule 2 Part 1 (P & D Regs 2001 as amended), the cumulative area of all structures shall not exceed 70sqm for private domestic use and storage only.

5.2. Natural Heritage Designations

There are no heritage designations within or adjacent to the site. The closest natural heritage designations area is the Lower River Shannon Special Area of Conservation which is located c 97m from the site.

5.3. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- At the time the shed was constructed, the applicant was unaware that there was a maximum floor area to which a domestic shed could be constructed as there are sheds larger than this in the surrounding area.
- The applicants shed predates the current Kerry County Development Plan 2022-2028.
- The shed has a total floor area of 81sqm, however it is proposed to use 13.14sqm of this floor area as a plant room. Whilst it is most common practice

to have the plant room inside the dwelling, in the applicants case, the heating system is a retro fit leaving the only option to make the plant room outside in the domestic shed. The floor area that remains available for use as a domestic shed (after making plant room) will be 67.86sqm which would be less than the floor area of 70sqm needed to comply with the current Regulations.

- The family use the shed for storage of everyday domestic items such as bicycles, lawnmower, utilities and is using part of this as a home office. This is all valuable space.

6.2. Planning Authority Response

None

6.3. Observations

None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant policies and guidance, I consider that the main issues in this appeal relate to:

- Principle of development

7.2. Principle of development

7.2.1. This is an application for permission to retain a domestic structure within the curtilage of an existing house and for its use as storage, office, plant room and WC including permission for minor works to the access arrangements to the plant room. The application form and drawings show the domestic building comprising storage, WC and office is 67.86sqm and the plant room is 13.14sqm, resulting in a total floor area of 81sqm. The report of the case planner states that the structure measures 94.83sqm, however the basis for this is unclear.

- 7.2.2. On day of site visit, the structure was unoccupied and not in a habitable stage. I observed the main structure constructed and internal finishing works semi complete with concrete floors, plaster boarded walls, wiring, attic hatch, socket holes in place. The space largely contained a mixture of construction materials and furniture including timber, building supplies, flooring, tiles, doors and coaches, beds etc. No permanent fixtures or fittings were yet in place. There is no plant room, WC or home office in place.
- 7.2.3. The planning authority have refused permission for one reason which states that the domestic storage shed to be retained contravenes section 1.5.10.9 of the Kerry County Development Plan 2022-2028 which indicates that the maximum floor area for sheds / garages is 70sqm and the development would seriously injure the amenity of the area.
- 7.2.4. Firstly, based on the site visit, I would note that having regard to the appearance, layout and standard of construction, the structure is built to a high standard commonly associated with habitable use. I would question why there is a need for a WC within the building which is within a few meters of the main dwelling. Whilst the applicant states that the plant room will provide for the main dwelling, the plant is not in place, it is unclear what plant or equipment is required for the dwelling, it is not common practice for plant to be separated from the dwelling it is to serve and there is no supporting information or evidence to support the applicants case. That aside and based on the existing state of the development and having regard to the development description and the details provided in the documentation submitted, I accept that the proposal is for a domestic building ancillary to the main house.
- 7.2.5. Volume 6 of the County Development Plan sets out development management standards. Section 1.5.10 sets out standards for residential development in rural and non serviced sites. Section 1.5.10.9 relates to sheds / garages and ancillary structures and states the following: *"Notwithstanding those developments listed under Class 3, Schedule 2 Part 1 (P & D Regs 2001 as amended), the cumulative area of all structures shall not exceed 70sqm for private domestic use and storage only."*
- 7.2.6. The standard is clear in that it states that the cumulative area of all sheds / garages and ancillary structures shall not exceed 70sqm for private domestic use and storage

use. In this case, the structure containing storage, office, wc and plant room has a combined total floor area well in excess of the 70sqm limit. Whether the floor area is 81sqm as shown in the drawings or 95sqm as referred to in the case planners report, I am of the opinion that both are well in excess of the limit. I agree that the proposed development would contravene the development standards set out in section 1.5.10.9 of the CDP. I note that section 1.4.1 states that consideration can be given to the flexible application of prescribed standards where there is a well designed development proposal. This is a standard domestic building and I do not consider that the layout or design is high quality or justified so as to warrant the flexible application of standards. Having regard to the scale of the building to be retained which is in excess of the acceptable size limitations for private domestic ancillary buildings as set out in section 1.5.10.9, including the lack of justification to demonstrate need, I consider that the proposed development would represent over development of this residential site and haphazard development and that this would seriously injure the amenities of property in the vicinity and be an unacceptable precedent for similar development. Refusal therefore is recommended.

8.0 AA Screening

- 8.1. I have considered the case ABP321958-25 in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 8.2. The proposed development is located within a cluster of residential development in the rural outskirts of Abbeyfeale. The proposed development comprises the retention of a structure for domestic use and minor alterations ancillary to the main dwelling on the site. The closest European Site, part of the Natura 2000 network, is the Lower River Shannon Special Area of Conservation which is located c 97m from the site.
- 8.3. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.
- 8.4. The reason for this conclusion is as follows:
 - Small scale and domestic nature of the development.

- The location of the development at the site of an existing house, distance from the European site network, absence of ecological pathways to any European site.

8.5. I conclude, 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.

8.6. 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 the planning application be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to

- (a) The Development Management Standards and Guidelines of the Kerry County Development Plan 2022-2028 and to the strategic objective of these standards which states that new development proposals are required to comply with the standards, and to 'section 1.5.10.9 sheds / garages / ancillary structures' which states the following: "Notwithstanding those developments listed under Class 3, Schedule 2 Part 1 (P & D Regs

2001 as amended), the cumulative area of all structures shall not exceed 70sqm for private domestic use and storage only.”

- (b) the size and scale of the domestic building to be retained which exceeds the 70sqm size limit referred to in the standards,
- (c) the internal layout which contains a WC and plant room including home office and storage, without justification to show that the size and use is necessary and appropriate,

it is considered that the proposed development represents excessive and haphazard over development of this residential site and would seriously injure the amenities of the area and property in the vicinity and would set a precedent for further inappropriate development in the vicinity of the site. The proposed development would, therefore, be contrary to 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.

Aisling Mac Namara
Planning Inspector

25th April 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	321958		
Proposed Development Summary	Retention of a standalone building, permission for alterations for changes to rear elevation and all associated site works.		
Development Address	Site 1, An Eacharas, Moynsha, Abbeyfeale, Co. Kerry		
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 x	Proceed to Q2.
		No	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)?			
Yes		State the Class here.	Proceed to Q3.
No	x		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No			Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	x	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____