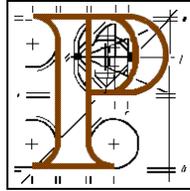


An Bord Pleanála



Inspector's Report

Development: House and connection to sewage treatment plant, Cratlagh, Milford, County Donegal

Planning Application

Planning Authority: Donegal County Council

Planning Authority Reg. Ref.: 06/ 50818

Applicant: Declan McGettigan

Type of Application: Permission

Planning Authority Decision: Refuse permission

Planning Appeal

Appellant: Same

Type of Appeal: First Party-v-Refusal

Observers: 'Concerned residents'

Date of Site Inspection: 14th February 2007

Inspector: Michael Finch

1.0 SITE LOCATION AND DESCRIPTION

- 1.1.** Milford is at the head of Mulroy Bay some 19km north of Letterkenny. The town is served by the R245 which runs from Letterkenny to meet the N56 at Creeslough. The townland of Cratlagh lies about 1.5kms north west of the town overlooking Bunlin Bay and on the lower slopes of the Sturrel and Crockaleahan mountains. Some 400m from Bunlin Bridge, where the R245 crosses Bunlin River, is a side road – known locally as Waterfall Road - that climbs up from the shore and serves scattered mountainside properties before joining the county road that links the R245 with the N56 via Glen Lough.
- 1.2.** The appeal site is situated on the north side of Waterfall Road and forms part of a large field in agricultural use as rough grazing, characterised by tussocky grass. It has a stated area of 0.45ha with a road frontage of about 49m and a depth of about 89m. The site is relatively level and lies about 1m below the public road. There is a ditch and dyke along the road frontage with a belt of birch trees, holly and gorse. To the west and east there are bends in the road but it has a relatively straight alignment along the front of the site. South of the road is an extensive conifer plantation. To the north of the site there are long views of Mulroy Bay.
- 1.3.** I attach photographs taken at the time of inspection; the Observers also submit photographs.

2.0 THE PROPOSED DEVELOPMENT

- 2.1.** The proposal is to construct a detached five bedroom house on the north side of Waterfall Road with a total floor area stated as 386.9 sq m. At the front the house would be set back about 26m from the road, some 14m from the western boundary and some 16m from the eastern boundary. There would be a rear garden with a depth of about 40m. The house would have a ‘T’ shaped layout with pitched roofs and grouped around a courtyard. In height it would vary between and 1.5 and 2 storey with a maximum ridge height of 8.3m.
- 2.2.** Most of the front elevation would have a stone finish with the remainder of the house having a smooth sand/ cement render finish. There appears to be no information about roof materials. The frontage hedgerow would be removed and replaced with a post and wire fence set back to provide visibility from the site access. A drive would lead to the courtyard and to the integral double garage on the north east side of the house. Other post and wire fences would form the other boundaries. A tree planting scheme is indicated.
- 2.3.** Surface water would be piped to the existing drain along the road frontage. A proprietary waste water system and percolation area are proposed at the rear of the house. Water would be supplied from public mains.
- 2.4.** A house of the same design and layout is proposed for land to the west of the site and is the subject of appeal **PL05.219198**.

3.0 THE PLANNING AUTHORITY'S DECISION

3.1. Donegal County Council decided on the 28th July 2006 to refuse planning permission for the following two reasons:

1. The proposed site is located within an area designated as landscape category 2 by County Development Plan 2000. It is the policy of the Planning Authority that permanent single houses for members of the indigenous rural community and immediate family members should be located in reasonable proximity to an existing occupied house (County Development Plan 2000, Section 2.5.5). It is the policy of the Planning Authority to protect areas of high landscape value and areas of special amenity and interest (County Development Plan 2000, Section 2.6.3). The site is distinctly removed from the existing pattern of development, which is concentrated along the county road to the north-west and south along the regional road. As such the site is not considered to be located in reasonable proximity to an existing occupied house. Accordingly, the proposed development would contravene the aforementioned provisions of County Development Plan 2000 and would, therefore, be contrary to the proper planning and development of the area.
2. The proposed development would set an undesirable precedent for similar type development in rural, unserviced areas of high landscape value, which by themselves and cumulatively would not be in the interests of the proper planning and development of the area.

3.2. The Planning Officer's report concluded that the proposal was not accepted as it was not within reasonable proximity of an existing occupied dwelling. A memorandum from the County Council's Public Services Centre states that there is no public water in the area and that a watermain extension would be needed to connect to the Golan/ Bunlin group water scheme. No objection was raised by the Roads Department.

3.3. Objections were raised in a letter signed by 14 residents of Cratlagh; these are carried forward in the Observer's objection summarised in 4.2.

4.0 GROUNDS OF APPEAL

4.1. The grounds of appeal submitted by McMenamin Leadley Partnership on behalf of Declan McGettigan can be summarised as follows:

- Appellant is a member of the indigenous rural community (attached letter to this effect from Cllr Ciaran Brogan of Letterkenny); he is builder in the locally based family firm and has a rural housing need in line with national and Development Plan policy;
- The house would be within 300m of an existing occupied dwelling, a 'reasonable distance' in terms of the 2000 County Development Plan which has now been superseded; a nearer distance would create the potential for ribbon development;

- Land to the south is wooded and land to the north very undulating and rocky, preventing residential development; this and the adjoining site would occupy the only flat land in the vicinity suitable for development and would form a coherent whole, integrating into the area;
- The dwelling would be large in scale but well proportioned and designed to fit into the landscape; the appellant willing to enter into a Section 47 agreement to sterilise use of the remainder of the land, beyond the two appeal sites to prevent future development;
- Site is extensive and has dry ground conditions; use of a proprietary waste water system would not cause a public health hazard.

4.2. Seven residents of the Cratlagh area have come together as Observers under the umbrella 'Concerned Residents'. Their objections to the development, illustrated by a series of photographs, can be summarised as follows:

- The appellant is not a member of the indigenous community and does not have a genuine housing need;
- The intention is to develop further in this location as suggested by recent accessway construction;
- The area is known as 'The Waterfall' and is rural, scenic with a wilderness feeling; this area of bogland and important upland has sparse housing in keeping with the terrain;
- Additional housing would need significant upgrading of roads, water and sewerage, interfere with the habitat, hedges and landscape and spoil this vital part of our natural heritage; Waterfall Road not suitable for more traffic;
- Site is wet bogland, not suitable for development;
- Removal of frontage hedgerow would be detrimental to landscape;

5.0 RESPONSES

5.1. The Planning Authority advises that it has no further comments to make.

6.0 NATIONAL & REGIONAL PLANNING CONTEXT

6.1. The National Spatial Strategy identifies Donegal as a distinct sub-region within the Border Region. Letterkenny/ Derry is defined as a linked 'Gateway', an urban centre with a strengthened development role. Small towns and villages are seen as playing important roles in providing local services and supporting employment.

6.2. The Sustainable Rural Housing- Guidelines for Planning Authorities April 2005 take forward the National Spatial Strategy. My interpretation is that in terms of Map 1 of the Guidelines the appeal site is within an area under the strong influence of the Letterkenny/ Derry linked Gateway. In such areas the Guidelines suggest that key development plan objectives should be, inter alia, to facilitate the housing requirements of the rural community while directing urban generated development to areas zoned for new housing development in towns and villages (Appendix 3, Box 1). Rural generated housing need should be defined by each planning authority and development plans should make

clear that proposals for individual houses in a rural area will be looked at favourably, subject to satisfying normal planning considerations (3.2.3).

- 6.3.** The Guidelines suggest that proposals should be subject to normal siting and design considerations; location and design should take account of and integrate appropriately with the physical surroundings and other aspects of the natural and cultural heritage (3.3). Ribbon and haphazard development should be avoided (3.2.1 and Appendix 4).
- 6.4.** The Regional Planning Guidelines for the Border Region 2004 give effect to the National Spatial Strategy and detail a multi-level sub-regional settlement strategy. Milford is defined as one of a number of ‘smaller towns/ villages’ which are significant service centres in areas where urban structure is weakest.

7.0 DEVELOPMENT PLAN

- 7.1.** The Development Plan context is set by the County Donegal Development Plan 2006-2012 which has come into force since the Planning Authority considered the application. In section 2.4 Milford is defined as a town for urban strengthening to complement and consolidate the Letterkenny/ Derry Gateway.
- 7.2.** The appeal site is situated in a rural area outside the ‘settlement control points’ of Milford where policies RH1 and RH2 promotes quality one-off rural housing for permanent occupation by people with a bona fide need and subject to various caveats. In 5.1 the Development Plan states that residential developments in rural areas should be for single houses only: multiple dwellings, i.e. 2 or more, will be encouraged to locate in towns and villages. Development guidelines and technical standards are set out in Appendix A. The Planning Authority promotes and supports the highest design standards for rural housing and guidelines are put forward in Appendix E.
- 7.3.** Under policy BNH5 the mountainous area to the west of the site stretching from Loughsalt Mountain to Crockalaght and Sturrel is designated an area of Especially High Scenic Amenity. As I understand it, the landscape categorisation used in the 2000 Development Plan has been superseded.
- 7.4.** Policy BNH2 seeks to protect trees, stone walls and hedgerows.

8.0 PLANNING HISTORY

- 8.1.** The Planning Authority has not identified any previous planning history.

9.0 ASSESSMENT

- 9.1.** I consider there are 4 principal issues raised by this appeal:
- (a) would the development be in line with national and Development Plan policies relating to rural housing;
 - (b) would the development have an unacceptable impact on the character of

the area and the wider landscape;

- (c) would the drainage and water supply arrangements be satisfactory;
- (d) would the proposed site access be acceptable.

- 9.2.** As the proposed dwelling would be located a considerable distance from existing dwellings I do not consider that any residential amenity issues arise. The Observers suggest that there is an abundance of flora and fauna but I interpret this as relating to the general area around 'The Waterfall' rather than specifically to the appeal site. The site is not included in any area designated in the Development Plan as having special wildlife interest and nature conservation was not raised as an issue by the Planning Authority. In the absence of any specific evidence I do not consider therefore that loss of wildlife interest is a substantive issue for this appeal.

Rural Housing Policy

- 9.3.** Taking national policy and Development Plan objectives together, it is common ground that urban-generated housing in areas under the strong influence of the Letterkenny/ Derry Gateway should be directed to Letterkenny. Alternatively the Development Plan foresees development being channelled to Milford to help strengthen its service centre role. However both the Guidelines and the Development Plan give scope for individual dwellings to meet rural need arising in rural areas.
- 9.4.** The DoEHLG guidelines expect Development Plans to define rural housing need and set out criteria for use in development control. The Development Plan defines specific townlands which are under the greatest pressure for urban-generated development and development there is controlled by policy RH4. The appeal site is not in one of these specific townlands and therefore the housing need criteria are those set out under the general rural policy RH2. I have assessed the proposal in the light of these whilst also taking into account the likelihood that the influence of the Letterkenny/ Derry Gateway extends to the Milford area as suggested by the Guidelines.
- 9.5.** This proposal is for an individual dwelling but I consider that it is material to note that appeal ref **PL05.219198** is also for an individual dwelling on the land immediately adjoining this site. Taken together they would, in terms of the definition used in the Development Plan, constitute a multiple development. In 5.1 the Development Plan states that multiple dwellings will be encouraged to locate in towns and villages and that rural development should be for single houses only. However this does not appear to be carried forward into a specific Development Plan objective and, although the multiple dwelling issue is in my opinion a material consideration, the two appeals have to be assessed on their individual merit.
- 9.6.** Development Plan policy RH2 sets out eight different examples of individuals who will be considered as falling within the criteria of housing need. Very little information is provided on the appellant's particular need but my understanding is that he relies on the first example, i.e. that he is an intrinsic part of the rural community. He suggests that he fits the example of 'non-

farming persons from rural areas’ and provides a letter of support from a local Councillor who states that the appellant is a member of the indigenous community by virtue of residing at Derryhassan. I understand that Derryhassan is near Downings some 19km north west of the site. The appellant says that he is a builder in the family firm which is ‘based in the locality of the site’ and therefore needs to live in this area.

9.7. Based on the limited information provided I am not convinced that the appellant has a bona fide need for a dwelling in this location. My interpretation of the Guidelines is that to be an intrinsic part of the rural community an individual should be able to demonstrate some affinity or link with the particular locality. The examples given in the Guidelines include, apart from farming families, those seeking to build their first home near their family place of residence or returning emigrants wishing to reside near other family members. Policy RH2 reflects these examples and in the case of farming families and returning emigrants refers to their link with the rural area ‘in which they propose to build’. This phrase is not specifically mentioned in relation to the third category, ‘non-farming persons from rural areas’ but in my opinion is implicit. The intention of the Development Plan is not in my view to widen the scope of the policy to include people living in any rural area: there has to be a link with the particular locality.

9.8. Another example of need given in Policy RH2, reflecting the Guidelines, is where a person is working in a rural area and this work is ‘intrinsically linked to rural areas such as teachers in rural schools or other persons whose work predominantly takes places within rural areas’. I do not consider that the appellant’s occupation comes within this definition. The appellant is an established rural resident who lives some distance from the appeal site. In the conclusion of his submission he states that he wishes to build a house ‘in the countryside outside Milford’. I appreciate that this site may be attractive to him for this reason but I do not consider that he has provided sufficient evidence of his need to live in this particular location. I conclude therefore that he has not demonstrated a bona fide need for a dwelling at Cratlagh. Accordingly I consider that the development would not be in line with national and Development Plan policies relating to rural housing.

Impact on Character of Area and the Wider Landscape

9.9. The impact of the development on the landscape of the area was a crucial issue in the Planning Authority’s consideration of the proposal based on the 2000 Development Plan, since replaced by the 2006 Development Plan. As I understand it, the landscape ‘Category 2’ referred to in the first reason for refusal- i.e. areas of high landscape value/ special amenity- no longer applies. The rural housing policy linked to this landscape category has similarly been superseded and there is no longer a specific requirement for dwellings to be ‘in reasonable proximity to an existing occupied house’.

9.10. Having said that, the new rural housing policy RH2 does sets its face against schemes that would ‘create haphazard development’ or ‘contravene the standards for location, siting and design in the landscape accommodating the

development'. I have therefore assessed the development against these criteria.

- 9.11.** The site is not within the Especially High Scenic Amenity area that extends along the mountain side to the west. Nevertheless I agree with the Observers that it is an area which has an open landscape character relatively untouched by housing developments. To the east, the nearest houses are those along the R245, a considerable distance away and at a substantially lower level than the appeal site. To the west, the nearest house is a modest dwelling some 300m away and located in a dip in the landscape and backed by woodland. Beyond that is another house a further 250m distant in a low lying situation next to a mountain stream. Further away again is a cluster of one-off houses on higher ground in the adjoining townland of Cool Upper and a scattering of farmhouses on the mountain side.
- 9.12.** In my opinion the proposed house would create haphazard or random development that would intrude into an extensive area of open country; this would be exacerbated if a second house were to be built on the adjoining land (appeal ref **PL05.219198**). The creation of a housing site on part of this large area of bogland would not to my mind be in sympathy with the existing pattern of development in the area. The proposed planting scheme might over time help integrate the house into the landscape but I am not convinced that this would be successful given the ground conditions. Complete removal of the frontage hedge and trees as proposed would also work against integration.
- 9.13.** Turning to the design of the dwelling, the Development Plan guidelines for rural housing are put forward in Appendix E 'Location, Siting and Design: Rural and Urban'. Assessing the proposal against these guidelines the 'T' shaped layout has enabled the floor plans to be kept relatively narrow and the roof pitches at an acceptable angle. However I consider there are some elements that conflict with the guidelines' aim of promoting design that will marry successfully vernacular building forms with modern living requirements:
- Use of long 'feature' windows on front and western elevations with hipped roof over front entrance;
 - Chimney breast on front elevation projecting from wall rather than being internal and design of flanking 'arched' windows;
 - Poor proportion of dormer windows on rear and western elevations.
- 9.14.** The design could be revised to accord more closely with the Development Plan guidelines but a major issue in my opinion is whether the scale and bulk of the house are suitable for this location. I recognise that the width and depth of the site are generous enough to accommodate a two-storey 5-bedroom house but this has to be considered in the context of a rural area where the pattern of development is mainly of much more modest single or one and half storey dwellings. On balance I consider this house would be an alien feature in the landscape.
- 9.15.** I conclude that the proposal would represent a haphazard form of development in this rural location and that its scale and bulk would have a serious adverse

impact on the character of the area. The impact would be increased if a house of the same design were to be built on the adjacent land (appeal ref **PL05.219198**).

Drainage and Water Supply

- 9.16.** In assessing the arrangements for disposal of wastewater I have considered the NSAI SR6 1991 'Recommendations for Domestic Effluent Treatment and Disposal from a Single Dwelling House' and also the ESA's 2000 wastewater treatment manual and 2004 consultation draft. A site assessment has not been undertaken but the appellant suggests that the site area is extensive and 'ground conditions are dry'. He considers that a proprietary treatment system would safeguard 'the cleanliness of discharging waters'.
- 9.17.** I agree that the site is extensive and I am satisfied that the distances between the treatment unit, the percolation area, the dwelling and the site boundary are all within the EPA standards. I am concerned however about the ground conditions. During my visit I found much evidence of standing water and my overall impression was that the site was part of a boggy, flat area bounded to the west by a line of rocky outcrop and to the east by the steep, wooded slopes fringing Bunlin Bay. The water table appeared to be high and in the absence of a proper assessment and site characterisation report I believe that a precautionary approach should be taken. I therefore conclude that there would be an unacceptable risk to public health in relation to wastewater disposal.
- 9.18.** For storm water the proposal is to pipe to the existing roadside drain. There appears to have been no technical objections and I have no reason to question this arrangement. In terms of water supply the submitted site layout plan suggests that connection will be made to a public main in the road but this is at odds with the comment from the Milford Public Services Centre that there is no public water in the area. The technical memorandum recommends that a 150mm water main extension be provided to the Golan/ Bunlin group water supply system. No further information has been given and it is therefore not clear how extensive this work might be. Without this I consider, as with the wastewater disposal question, that a precautionary approach should be taken and I conclude that it has not been demonstrated that water can be satisfactorily supplied to this development.

Access

- 9.19.** In the vicinity of the site the carriageway of the public road is approximately 3.4m wide and has a good tarmac surface. There are occasional passing lay-bys, including one on the opposite side of the road from the site frontage. The width of the adjacent verges is difficult to determine because of the frontage vegetation but appears to be between 1 and 2m. The gradient of the road along the site frontage is level and the alignment is relatively straight although there are sharp bends about 120m to the west and 200m to the east.
- 9.20.** In assessing sightlines from the site entrance the design speed for this public road could be assumed to be between 40 and 60 km/h, bearing in mind that it

is a rural side road where traffic is likely to be light. For Rural County Undivided roads of this nature An Foras Forbartha RT181 (Table D3.1) recommends that a sight triangle of between 80m x 3m and 160m x 3m should be provided for intersections where there is 'stop' control. The Development Plan standard is less stringent, requiring a triangle of between 70m x 2.4m and 90m x 2.4m (Appendix A, Table 4).

- 9.21.** The submitted drawing indicates the front boundary being set back about 4m from the carriageway. A vision 'y' distance of 68m is shown but it is not clear what 'x' distance has been used. Because of the slight 'concave' alignment of the carriageway to the east of the site I do not see any difficulty in achieving a triangle in that direction of at least 80m x 3m, assuming the site boundary is set back as proposed. In a westerly direction visibility is more restricted because of the hedgerow vegetation along the adjacent road frontage but nevertheless it should be possible to obtain a triangle of about 70m x 2.4m, again on the basis that the site boundary is set back.
- 9.22.** The proposed entrance detail would meet the Development Plan standard (Appendix A, Figure 3) and there would be sufficient space to allow for a satisfactory grading of the access from the site up to the level of the public road.
- 9.23.** From the bend east of the site the road drops down through woodland before bending sharply at the foot of the waterfalls to meet the R245. Visibility at the regional road junction is relatively good. The alignment of the county road is not ideal but overall I do not consider that the proposed development would add materially to any existing road safety hazards.
- 9.24.** I conclude that the access arrangements would not endanger public safety by reason of traffic hazard.

Overall conclusions

- 9.25.** My overall conclusions are that:
- a) the development would not be in line with national and Development Plan policies relating to rural housing;
 - b) the development would have an unacceptable impact on the character of the area;
 - c) insufficient information has been submitted to show that the waste water drainage and water supply arrangements would be satisfactory;
 - d) the proposed site access would be acceptable.

10.0 RECOMMENDATION

- 10.1.** I have read the submissions on the file, inspected the site, considered the grounds of appeal and assessed the proposal in the context of the proper planning and sustainable development of the area. I recommend that planning permission be refused for the following reasons and considerations.

REASONS AND CONSIDERATIONS

1. The site is located in an area indicated as being under strong urban influence in the Sustainable Rural Housing Guidelines for Local Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005, the objective of which is to facilitate the housing requirements of the rural community while directing other development to towns and villages. Having regard to the provisions of the Sustainable Rural Housing Guidelines and the current Donegal Development Plan, it is considered that the applicant has not demonstrated a genuine rural housing generated need at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would constitute undesirable haphazard development in a rural area lacking certain public services and community facilities. The proposed development would, therefore, give rise to demands for the provision of further public services and community facilities.
3. It is considered that, by reason of its scale and bulk, the proposed two-storey house would be visually obtrusive in this open rural area which is characterised by single-storey houses. The proposed house would, therefore, be contrary to the proper planning and sustainable development of the area.
4. Having regard to the soil conditions and high water table, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the site can be drained satisfactorily by means of a septic tank, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

**Michael J. Finch,
Inspector,
23rd February 2007**