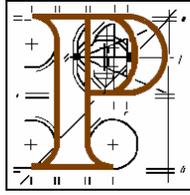


# An Bord Pleanála



## Inspector's Report

An Bord Pleanála Reference 05A.229926

**DEVELOPMENT:** Construct 10 No. houses, sewage treatment plant and all associated site works at Drung, Redcastle, Lifford. Co Donegal.

### PLANNING APPLICATION

**Planning Authority:** Donegal County Council  
**Planning Authority Reg. No:** 07/70996  
**Applicant:** Patsy Mc Gee  
**Application Type:** Permission  
**Planning Authority Decision:** To Refuse Permission

### APPEAL

**Appellant:** Patsy Mc Gee  
**Type of Appeal:** First Party  
**Date of Inspection:** October 30<sup>th</sup>, 2008  
**Inspector:** Breda Gannon  
**Appendix 1:** Annotated Photographs  
Site Plan/Extracts from Development Plan

## **INTRODUCTION**

This is a First Party appeal against the decision by Donegal County Council to refuse permission for the development.

## **SITE LOCATION AND DESCRIPTION**

The appeal site, which has a stated area of 1.89 Ha is located in the townland of Drung c 2km to the south-west of the village of Redcastle in Co. Donegal. It is located on elevated ground in a landscape that rises gradually from Lough Foyle to Glencaw Hill to the north-west. The area is rural in character and the primary land use is agriculture. The settlement pattern is largely dispersed with the exception of isolated clusters. The site is accessed by a local road, which runs in a north-western direction off the R 238, the regional road that travels along the coastline connecting Muff to the south-west with Moville to the north-east. There is no pedestrian linkage between the site and the village, which lacks a defined core.

The appeal site forms part of a larger open field currently used for sheep grazing. It lies immediately to the east of an existing housing scheme (Marshall's Meadow) that consists of eleven detached residences. The southern and lateral site boundaries are formed by trees/hedgerow, while the northern boundary remains largely undefined. The site is undulating in character, but primarily slopes from north to south. There are panoramic views from the site over Lough Foyle.

## **PLANNING APPLICATION**

The development is described as follows in the public notices submitted with the application: -

*'Permission to extend existing service road, construct 10 no. detached one and a half storey dwellings, sewage treatment plant and all ancillary site works at Drung, Redcastle, Co Donegal'.*

A total of three house types are proposed. House type A and A1 are located to the north/north east side of the site and comprise dwellings with a ridge height of 7.8 m. The exterior of the dwellings is a stone clad and smooth plaster finish with a blue/black slate roof covering. House type B will be located to the south /south east side of the site and will be orientated to face Lough Foyle. These houses will have a ridge height of 7.4m and similar external finishes. The design incorporates a balcony feature in the front elevation.

All of the houses will be connected to a communal wastewater treatment system located in the south-eastern corner of the site. The water supply will be from a bored well supply located on land in separate ownership to the north. The application was accompanied by a number of documents including a site suitability assessment report, a Pump Testing and Sampling Report on the Borehole and Traffic and Transport Statement.

In response to a request for further information dated 17<sup>th</sup> August, 2007, it was confirmed that permission to access the proposed development via the existing estate road had been secured. It was also confirmed that permission would be granted to the

applicant to widen the road from the junction with the regional road to the Marshall's Meadows housing scheme in order to provide a 6.5 m road and a 2 m footpath. The overall responsibility for the maintenance of the service road would be shared between the two developers. A revised site layout was submitted (Drawing 33306/001C) indicating that one house had been removed and increasing the separation distance to the treatment plant to 31m.

The planning authority reverted back to the applicant on 18/1/08 requesting the submission of outstanding items ( to address infrastructural deficiencies and submit flood impact assessment) requested on 17/8/07. The applicant was advised that the ground levels of the dwellings should not exceed those existing and that dwelling no's 7, 8 & 9 should be relocated to maintain the established building line and to preserve the privacy of dwelling No 6 (Marshall's Meadow). During an extension of the appropriate period a revised layout out was submitted on 24/4/08. The position of House no 3 was also revised.

The information submitted on 16/5/08 confirmed that the applicant was willing to contribute towards the cost of providing a mains water supply in the Inishowen Area and had no difficulty in accepted a condition in this respect. In the interim, a temporary water supply could be provided from a bored well. The applicant was also willing to contribute and carry out works to alleviate sewage deficiencies in the area and has no objection to a condition requiring same. It was recognised that it would take some time to secure this proposal and temporary short-term measures were proposed in the form of a communal treatment plant on the site.

The proposal to carry out road improvements as required from the regional road to the existing development was re-affirmed. The applicant would also be agreeable to the payment of a further contribution towards roads infrastructure in the area, if so required. A Flood Impact Assessment was submitted together with a revised layout plan showing reduced floor levels.

## **PLANNING HISTORY**

I note from the planning officer's report that a previous application for the same development was withdrawn due to the failure to comply with Policy UB1 of the development plan.

## **PLANNING REPORTS**

The **Planning Officer's** report of 17/8/07 noted that the site is located within the control points of Redcastle. The Marshall's Meadow housing scheme to the west was permitted under a number of different applications and currently consists of 11 houses. The housing quota in Redcastle is currently 103, which equates to 10 units per developer. As such the principle of the development is acceptable. To date no multiples have been permitted in Redcastle and the original quota is still acceptable. The site will be accessed off a narrow county road, which rises sharply and has limited carrying capacity. Concerns arise over the proposed intensification of the road and the impacts on traffic and pedestrian safety.

Having regard to the existing scheme of 11 units and the proposal to construct ten additional units, some improvement in the linkage of the subject site to the village is considered necessary. It was noted that the main infrastructural deficiencies in the area

are water supply and sewerage, both of which require large capital investment to alleviate the problem. In relation to house design concerns arise regarding the ability to integrate the proposal with the design established in the existing estate. There are also issues with respect to ground levels and proposed floor levels.

The Planning Officer's report of 18/1/08 following the receipt of further information (dated 21/12/08) noted that the inspection of the laths erected on the site raised concerns over the location and siting of the dwellings relative to the existing dwellings in Marshall's Meadow. It was noted that a design concept was submitted and considered acceptable. The proposed house re-design was also considered acceptable. The 31 m separation distance to the treatment plant was in accordance with the requirements of the EHO.

The Planning Officer's report of 4/6/08 noted that information received on 15/5/08 demonstrated a reduction in the FFL of the dwellings from between 1-5m respectively. A finished floor level of 14m is proposed between dwelling no.2 and dwelling no.7, which was considered satisfactory due to the topography of the site, the 90m distance between the plots and the existing variance in levels in phase 1 of Marshall's Meadow.

It was noted that detailed documentary evidence had been submitted indicating that the applicant can provide his own temporary water supply. The E.E (WEES) report of 26/5/07 states that the proposal is premature as a water supply is not available. The information was also referred to S.E.E (WEES). The absence of a response would suggest that the applicant has failed to address the issue of water supply to the satisfaction of WEES and should therefore be refused. It was also noted that details of the wastewater treatment proposals were referred to WEES and no report had been received. It is considered that the proposed treatment plant fails to comply with Table 1 Section 1.3 Appendix A of the Plan as it does not have (i) the capacity to serve existing/proposed housing in the area to a substantial degree (ii) the design, specification and location of the plant had not been approved and (iii) no agreement had been reached in respect of the operation and maintenance of the plant. To permit the development would therefore be contrary to the policies of the Plan.

The applicant has submitted plans, which demonstrate the widening of the county road to a minimum of 6.4 m with the provision of a 2m footpath from the regional road to the development site. The appropriate consents had been submitted and applicant should be conditioned to carry out the works. A flood impact assessment had been submitted which details (i) that existing culverts have the capacity to accommodate discharge from the catchment area and the proposed site, (ii) there is no requirement for storm water attenuation tanks etc and (iii) the topography of the site is not susceptible to flooding.

It was concluded that as the applicant had failed to address items no's 1 and 5 of the further information request in relation to water supply and wastewater treatment, permission should be refused.

The **HSE** in their report of 23/5/08 raised no objection to the development subject to conditions which required the installation of a wastewater treatment system, a sand polishing filter of not less than 220 sq m and the provision of a percolation area beneath the sand polishing filter.

The **WEES** report of 26/7/08 considered that the application was premature as no water supply was available.

## **PLANNING AUTHORITY'S DECISION**

The planning authority decided to refuse permission for the development on the grounds that it would be premature and would materially contravene Policy UB1 of the County Development Plan.

## **APPEAL SUBMISSIONS**

### **1<sup>st</sup> PARTY APPEAL**

The following summarises the grounds of appeal: -

The applicants were made aware at an early stage of infrastructural deficiencies in the Inishowen Area and in particular Greencastle, Moville, Redcastle, Quigley's Point and Muff. The main issue was lack of water supply. The applicant is one of a collection of people/developers who have offered to pay considerable monies towards the upgrading of the watermains in the area. This offer was made on May 3<sup>rd</sup>, 2007.

In the interim considerable money was paid to O'Neill Ground Water Engineering to prove that a bored well could provide adequate water to facilitate the proposed development. This was put forward as a short-term measure until such time as the upgrading of the mains supply was carried out. Monies are available in the Water Services Investment Programme (copy enclosed).

It was understood no multiple developments would be permitted in the area until the water mains were upgraded. This has been the policy of the Water and Environment Services since the county development plan was adopted. However, it is noted that other development have been permitted such as Pisana Developments in Redcastle which was approved with a bored well (06/71080). Two applications for multiple developments were also approved in Muff (07/71035 & 07/71036), both of which have been charged €140,000 towards water upgrading.

Proposals have also been put forward for foul drainage and cover not only applicant's land but take into consideration the Redcastle, Quigley's Point, Moville and Greencastle areas. The appellant is willing to pay financial contributions towards the provision of a central sewage treatment plant in Drung. In the meantime details of a sewage treatment plant together with the relevant site assessment have been submitted as a short term measure. It is not understood why such short term measures are not acceptable. In Carrigans, which is located in an Urban Generated Rural Housing Area, permission has been granted for an on site treatment plant (07/71035).

The appeal is supported by documentation, to which I draw the attention of the Board.

## **RESPONSES TO GROUNDS OF APPEAL**

### **The Planning Authority**

No response to the grounds of appeal were submitted by the planning authority.

## **DEVELOPMENT PLAN**

The operative development plan is the **County Donegal Development Plan 2006-2012**. The proposed development is within the 'control points' of Redcastle (Map No 66-Towns and Villages Control Points Maps). It is the policy of the planning authority to focus new housing development within the control points for towns and villages. Multiple higher density housing developments are only permitted within the defined control points.

The site is in a rural area north of Derry identified as under pressure for **Urban Generated Rural Housing** (Map 5). These are the areas which display the greatest pressure for development due to their proximity to the immediate environs or close commuting catchment of large towns and villages and to major transport corridors with ready access to urban areas. Under the provisions of **Policy UB1** where a 'control point' is located within the areas designated as 'Urban Generated Rural Housing' applications for multiple residential developments are required to demonstrate how they can contribute to the long-term provision of services and infrastructure within the control point. In the absence of appropriate services and infrastructure, the development will be deemed to be premature.

A recent variation of the Plan (**The County Donegal Development Plan 2006-2012 Variation No 1, 2008**) incorporates amendments to Policy UB1 which provides for the inclusion of the following text: -

*Proposals for all new housing estate development shall comply with Appendix A , Development Guidelines and Technical Standards, section 1 and shall have regard to the DoEHLG publication, 'Quality Housing for Sustainable Communities', Best Practise Guidelines for Delivering Sustainable Communities, 2007.*

Standards & Requirements for Housing Development in Urban Areas and Recommendations for Foul Drainage Treatment Plant for Housing Schemes are set out in Section 1.2 & Section 1.3 respectively of **Development Guidelines & Technical Standards (Appendix A of the Plan, as varied)**.

Guidance in relation to siting and design is contained in '**Location, Siting and Design Guide- Appendix E of the Plan, as varied**.'

## **ASSESSMENT**

The main issues which arise for determination by the Board in this appeal relate to infrastructural deficiencies in the form of water supply and foul drainage.

### **Water Supply**

I note from the WEES reports on the file that a public water supply is not available to serve the development. To address this deficiency, the applicant included with his application details of a borehole as a source of drinking water. The borehole was drilled to a depth of 120 m. As the average pumping rate at 0.4 l/s (34.6 m<sup>3</sup> /day), far exceeded the requirements of the proposed development (20 m<sup>3</sup>/day), no issues arise with respect to yield. The water was also analysed for hydrochemical and microbiological parameters. Analysis of the water quality revealed elevated levels of iron and

manganese, evidence of deoxygenated water. This coupled with the presence of E.Coli and Coliforms suggests that the water is polluted. It was acknowledged in the report that the water would require both treatment and disinfection to provide a potable supply.

The proposals for a water supply were considered to be inadequate by the planning authority. In response to protracted requests for further information on this issue, the applicant's agent (MH Associates) confirmed that the applicant and other clients, whose proposals were also delayed due to infrastructural deficiencies, were willing to contribute towards the cost of providing a mains water supply in the Inishowen area. Notwithstanding this, the inclusion of the Inishowen Regional Water Supply Scheme as a 'Scheme to Advance through Planning' in the Water Services Investment Programme 2007-2009 suggests that there will be delays in the delivery of the scheme. The current cut back on capital spend arising from budgetary constraints is likely to further slow down its delivery. The cost of the scheme is stated to be €19m and the contributions likely to be collected from developers would only be a minuscule percentage of the costs involved.

I have two major difficulties with the interim proposals for a water supply proposed by the applicant. Firstly, the bored well is located on land to the north of the appeal site and is in separate ownership. Notwithstanding the written consent of the landowner to the installation, access and use of the borehole, any change in this arrangement in the future would have serious implications for the provision of a water supply for the development. As the lands are outside the applicant's ownership and control, I question how a suitable and reliable water supply for the development can be guaranteed in perpetuity. Any condition requiring that the water supply be provided as proposed would be unenforceable as it would fall outside of the applicant's control to implement. Secondly, the provision of a reliable and potable supply of water from the borehole would require a high maintenance and monitoring input by a technically competent person. The treatment and monitoring of water quality cannot be left to chance and it is my opinion that the responsibility for this should not be placed in the hands of a private developer but in the interests of public health, should rest with those with statutory obligations.

I concur with the decision of the planning authority that the proposed development is premature and fails to comply with Policy UB1 of the Plan with respect to contributing to the long term provision of water services within the control points of Redcastle.

### **Foul Water Drainage**

There is no public foul water drainage system in the Redcastle area to facilitate the proposed development and there is no reference to planned works to address these deficiencies in the near future. I note from the correspondence attached to the appeal and from the response to the further information (May 16th, 2008) that several developers in the area extending from Quigleys Point, Moville and Greencastle were agreeable to the payment of contributions, to address sewage infrastructural deficiencies. It was noted that Redcastle/Drung would probably require two sewage treatment works due to the extended area between the control points. The WEES appears to have considered such proposals to be acceptable in principle. It is acknowledged by the First Party that it will be some time before these facilities can be secured and as an interim solution it is proposed to provide a temporary treatment plant on the site.

I note from the site suitability assessment submitted in support of the application that the site is underlain by a Poor Aquifer of *Extreme* vulnerability. Bedrock was encountered at 1.74 m below ground surface and consists of angular schist, gravels and cobbles. The water table was not encountered. The results of both 'T' and 'P' tests suggest a free draining site and soils with rapid percolating properties, The T and P values of 5 and 8 respectively are consistent with the soils/subsoils present and suggest that effluent will move rapidly down through the soils. The main consideration therefore, is to ensure that sufficient attenuation is achieved to prevent a risk to groundwater.

It is proposed to install a mechanical aeration system with a raised sand-polishing filter. Construction of the polishing filter with imported material having a 'T' value of 20-30 and the provision of 1.2 m of unsaturated subsoil between the base of the sand polishing filter and the bedrock level should be sufficient to adequately treat the effluent prior to discharge to groundwater. However, given the significant engineering works that will be required for the installation of the system including the provision of land drains uphill and on either side of the effluent treatment system to prevent ingress of surface water, it is considered that details of the overall specification of the design of the system and how it will be accommodated on the site should have formed a constituent part of the application.

The Plan (Section 1.3 of Appendix A) facilitates the provision of communal treatment plants for housing schemes where no public mains sewerage network or treatment exits or is imminent in an urban area, subject to a number of conditions. One of the conditions required requires that such plants have the capacity to serve both the proposed development and existing housing in the area to a substantial degree. I would deduce from the wording of Table 1 of Section 1.3 that it is not envisaged that numerous treatment plants will be permitted to facilitate individual housing schemes, but rather that a single plant would be provided where the majority of existing residences could be connected with a net benefit to the community as a whole. It is my opinion that to permit this development would establish an undesirable precedent for similar developments in the future which would militate against the policy of the plan to ensure proper and planned provision of services in line with residential growth.

## **CONCLUSION**

I concur with the conclusions reached by the planning authority that in the absence of water supply and foul drainage mains infrastructure the proposed development is premature. The temporary proposals submitted in the form of borehole water supply and a communal treatment plant are at variance with the Policy UB1 which requires that multiple residential developments contribute to the long term provision of services within the control point.

**Note:** The planning authority has refused permission because it was considered that the proposed development would constitute a material contravention of the development plan. Should the Board consider that a grant of permission is appropriate, it is constrained by the provisions of Section 37(2)(b) of the Act. It is my opinion that a grant of permission in this case cannot be justified in accordance with the requirements of Section 37(2)(b) (i)(ii) or (iii). The appellant refers to a number of planning permission granted since the adoption of the Plan. Two of these applications were granted in Muff (07/71035 & 07/71036) and conditions requiring the payment of contributions in respect of the capital works required for the provision of water for Muff

Village and towards the upgrade of the existing sewerage treatment works were imposed. The third permission referred to by the appellant relates to the provision of 30 no. holiday chalets within the grounds of the Redcastle hotel to the south east of the site. Condition No 10 required that the water supply be by way of a bored well. Whilst I would not consider this type of development, which is associated with an existing hotel to fall within the scope of Policy UB1, the Board may consider having regard to the acknowledged deficiencies in public infrastructure in the area that the planning authority has not been consistent in its approach to applications for permission in the area generally and avail of its powers under Section 37 (2) (b).

### **RECOMMENDATION**

In light of the above assessment, I recommend that permission for the development be refused.

### **REASONS AND CONSIDERATIONS**

1. The site of the proposed development is located within the 'Control Points' of the Village of Redcastle in an area identified as under pressure for Urban Generated Rural Housing in the County Donegal Development Plan 2006-2012. Notwithstanding the temporary measures proposed to serve the site by means of a borehole water supply and an on site wastewater treatment system, it is considered that the proposed development materially contravenes Policy UB1 of the Plan in that it fails to demonstrate how it will contribute to the long term provision of services and infrastructure within the control point, in the absence of which the proposed development is considered to be premature. To permit the development would create an undesirable precedent for similar developments in the future. It is considered, therefore, that the proposed development would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the proposal to source a water supply from a bored well on lands in separate site ownership outside the boundaries of the site, the Board is not satisfied that the applicant has sufficient control over the lands on which the well is located to guarantee in perpetuity a potable water supply to serve the proposed development. The proposed development would therefore be prejudicial to public health.

Breda Gannon  
Inspectorate  
November 18<sup>th</sup>, 2008