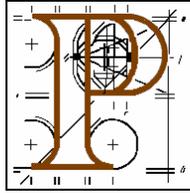


An Bord Pleanála



Inspector's Report

An Bord Pleanala Reference PL 05.238088

DEVELOPMENT: Construct house and all associated site works at Lergadaghtan, Kilcar. Co Donegal.

PLANNING APPLICATION

Planning Authority: Donegal County Council
Planning Authority Reg. No: 10/20357
Applicant: Conor Meehan
Application Type: Permission
Planning Authority Decision: To Grant Permission

APPEAL

Appellant: Patrick & Anne Marie O'Donnell
Type of Appeal: Third Party
Date of Inspection: April 11th, 2011
Inspector: Breda Gannon
Appendix 1: Annotated Photographs
Site Plan

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INTRODUCTION

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

SITE LOCATION AND DESCRIPTION

The site is located c 10 km southwest of Killybegs in Co Donegal. It lies in an area of undulating rural landscape accessed by a local road that travels along the coastline south of the R 263. The roadway separates the more elevated areas of Crownarad and Crownasillagh to the north from the rolling topography that falls away towards the coastline to the south. The lower sections of these lands are accessed by a minor road that ends in a cul de sac at Trabane beach. The settlement pattern is largely dispersed with houses dotted along the road network and some clusters in lower areas.

The appeal site comprises a strip of land, which has a triangular shaped configuration. The widest section forms the road frontage to the north, narrowing considerably to the south. It comprises a number of agricultural fields separated by low stone walls. There are rock outcrops, particularly in the northern sections. The boundaries are formed by dry stone walls/post and wire fencing. The site is elevated adjacent to the local road to the north, from where the gradient falls gradually. This is followed by a terrace and plateau of more level ground. Beyond this the gradient slopes more steeply downwards towards the minor road to the south. The site is surrounded by agricultural land, primarily used for sheep grazing. There are panoramic views from the site over the surrounding countryside and to the coastline.

PLANNING APPLICATION

The application seeks the construction of a flat roofed dwelling on the site, which has a stated area of 1.04 Ha. The house would be recessed back from the local road by a distance of 85 m. It would have a rectangular shape with a natural stone/smooth plaster finish. The house would be excavated into the landscape with the roof level below ground level on the northern side.

Foul effluent from the house would be discharged to a conventional septic tank and percolation area located to the south of the house. The water supply would be from a public mains supply.

PLANNING HISTORY

No details of any relevant planning history has been forwarded by the planning authority.

PLANNING REPORTS

The **Planning Officer's** report of 9/11/10 notes the efforts made by the applicant to conceal the dwelling. It will not be conspicuous when viewed from the local road network to the north, northwest or northeast as it is a partially submerged flat roof

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structure. The design and scale of the dwelling is respective of the site's topography and the roofline is lower than the ground levels to the rear and as such any visual impact will be from the south. The impact is not considered to be significant as the lands fall away to such an extent that it is doubtful if the front elevation will be visible at all. A house design similar to those in the area would result in an incongruous feature in the scenic coastal landscape.

The existing view between the road and the sea has not been compromised to date and it is considered to be of a significantly high quality to ensure its integrity is maintained. It is not considered that the view will be materially affected by the siting, location or design of the development.

It appears that vision lines can be achieved and do not appear to cross third party lands. Surface water discharge is not considered to be an issue as the lands fall away to the south to lands in the ownership of the applicant. The concerns with regard to overlooking are considered to be unfounded as the lands directly in front of the house to the south are within the confines and curtilage of the site.

The **Road's Report** of 9/11/10 raises no objection to the development subject to conditions

The **EHO** report of 26/10/10 raised no objection to the development subject to conditions.

PLANNING AUTHORITY'S DECISION

The planning authority decided to grant permission for the development subject to 9 conditions, which contains the following conditions of note.

Condition No 1 – Occupancy clause.

Condition No 4 – Finished floor level shall not exceed levels as illustrated on site layout.

Condition No 7 – Financial contribution.

Condition No 8 – Septic tank and percolation area.

Condition No 9 – Restrictions on exempted development.

APPEAL SUBMISSIONS

3rd PARTY APPEAL

The grounds of appeal are summarised as follows:

Visually obtrusive – from the local road network, from the viewing point on the Kilcar side of Muckross Junction and the viewing point at Muckross Head. The development

on such an elevated site will have a negative impact on the landscape and scenery of the area.

House design – is not in keeping with the design guidance provided in the Plan or with the design in the general area.

Traffic – vision lines are not achievable and there are no third party consents from adjoining landowners.

Overlooking - of adjacent property due to elevated position of the house.

Drainage – run-off and drainage from the site onto third party property has not been addressed.

Contravention of Plan - Policy BNH5 of the Plan and policy with regard to development between the road and the sea.

RESPONSES TO GROUNDS OF APPEAL

The Planning Authority

- The planning authority gave very serious and due consideration to the siting, location and design of the proposed dwelling both at pre-planning stage and during the course of the application.
- The dwelling as proposed will integrate into the site without creating visual intrusion in the landscape.
- It is not considered that third party consent was required with respect to achievement of vision lines as the 70m vision lines are achievable to the west within applicant's landholding and do not cross third party lands to the east.
- The concerns with respect to overlooking are unfounded given the separation distances to lateral boundaries and the low profile of the proposed structure.
- Surface water will discharge to an open ditch on lands to the south.
- The planning authority had due regard to the value of the view that currently exists. It is not considered that the view to be had directly to the north of the site will be materially affected by the development.

First Party

- Careful consideration has been given to the position of the dwelling on the overall lands, to the architectural design and to the proposed set back excavation. The dwelling will not be visible from any of the local roads or viewing points. Lands to the south are at a considerably lower elevation and distance and given the house set back, roof level lower than its receiving ground, existing natural stone wall to the front of the site and the level plateau at the front of the house, any sightline from the distance is naturally cascaded over the dwelling to natural landscape and views protected.
- The local landscape is characterised with one-off detached and sporadic dwellings, the designs of which vary. There is no set pattern in the vicinity. A traditional style pitched roof dwelling situated on existing ground contours would not be desirable.
- Donegal County Council's policy on development between the road and the sea is not contravened. The integrity of existing views is maintained.

- The required vision lines are achievable within the boundaries of the site and do not require third party consents.
- Elevation and orientation of windows permit for predominant south and southwest views only. Having regard to the separation distances to the nearest dwelling there is no issue of overlooking.
- On completion of the built works, all landscaping will be completed to a high standard of finish both in works/materials and will be sympathetic to the existing landscape.
- Storm waters will be discharged to an existing open ditch on lands in the ownership of the applicant. If necessary, an underground water retention system/harvesting system can be installed to reduce storm water disposal.
- The proposed access road to the site follows the existing contours of the ground and the gradients are acceptable for domestic purposes.

The Board is requested to substantiate the validity of the appellants as there are no persons in the name of Patrick & Ann Marie o Donnell resident in Roelagh.

POLICY CONTEXT

Map 1 of the **Sustainable Rural Housing Guidelines for Planning Authorities** (NSS Rural Area Types) published by the DoEHLG (April 2005) identifies the site lying with a 'Predominantly Dispersed Settlement Area'. The Guidelines state (3.2) that Map 1 is only an indicative guide and that further more detailed analysis is required at local level to incorporate this approach to identifying different types of rural areas in the development plan process. The Guidelines make provision for local housing needs to be accommodated where they arise subject to good planning practice in terms of location, siting and design.

The operative development plan is the **County Donegal Development Plan 2006-2012**. The policies of the Plan in relation to rural housing are set out in section 5.7. The site is located in a rural area outside the control points of towns/villages and accordingly the provisions of Policy RH2 (as varied) apply.

Policy BNH 5 concerns Landscape Conservation including the protection of views.

Guidance in relation to **Location, Siting and Design** is set out in Appendix E of the Plan

Development Guidelines and Technical Standards are set out in Appendix A.

ASSESSMENT

The main issues that arise for determination by the Board with respect to the appeal relates to the following:

- Visual Impact
- Drainage

- Traffic
- Other issues including foul drainage, housing need etc.

Visual Impact

The appellants' raise visual obtrusiveness, impacts on views and inappropriate house design as factors that will contribute to negative visual impact arising from the development.

The development is proposed on a highly elevated exposed landscape from where there are panoramic views over Muckros village and the coastline. Whilst there are designated Areas of Especially High Scenic Amenity in the vicinity, these are located to be north of the local road centred on Croaghmuchros and to the north of the R 263 incorporated the mountainous areas of Crownasillagh and Crownarad. The area to the south of the local road, which includes the subject site, does not appear to be covered by any amenity designation. Under the provisions of the Plan, the landscape is considered to have the capacity to absorb development.

Notwithstanding, the absence of an amenity designation, the landscape character is rugged and rural and is sensitive to change. Its open and exposed nature poses a challenge to the successful integration of development. It falls within the 'Coastal and Island' landscape type, one of five identified in the Plan (Appendix E) as representative for the county as a whole. Inappropriate housing design in one-off housing is identified as a threat in this area. The Plan recommends careful siting and due to the exposed nature of such landscapes and harsh seasonal weather conditions, it is recommended that higher-level house design should be avoided.

I accept that the applicant has made considerable efforts to integrate the development into the receiving landscape and to ensure that its impact is kept low. This is achieved by both the design of the house, which is single storey and low profile and by construction techniques involving cutting the development into the site, thereby ensuring that the back (north side) of the house will not project above existing ground level. The house will not therefore be visible from the local road to the north. The existing rock outcrop to the west of the house will be retained and used to screen this side of the house. It is not considered, therefore, that the issues raised with respect to visual intrusion on the views from the Kilcar side of the local road junction providing access to Muckros are justified. Due to the elevated nature of the terrain and the location of the house on the opposite side of the crest of the hill, the house will not be visible from the local road immediately to the south.

It is not considered that the impact of the development from more distance views in the vicinity of Muckros village or Muckros Head will be significant. The Board will note from Photograph No 7, taken at Muckros, that the houses on the north side of the upper local road, which are at higher elevations are barely discernible. Due to the siting and design of the proposed development and the nature of the landform, it is not considered that the development will be visually obtrusive when viewed from greater distances. I do note that there are designated views from Muckros Head (Map 9) but these are orientated in the opposite direction.

The development will not impact on any view between the road and the sea and accordingly will not be at variance with the provisions of Policy BNH 5. Due to its position below ground level, the house will not be visible from the local road to the north. Nor will it be visible from the local road to the south due to its elevated position and the undulating nature of the landscape.

As existing houses in the locality vary in design, scale and proportions, ranging from the vernacular to more modern suburban style designs it is not considered that the proposed house will detract from any recognisable design pattern. The low height and narrow floor plan is most appropriate in terms of integration and providing linkage with the landform. It conforms generally with the 'long and low' design recommended for coastal areas in Appendix E.

Drainage

The Third Party has concerns that surface water from the site will discharge onto adjoining property. Whilst I do not consider that this is likely to be an issue on the basis that the applicant owns the land down gradient to the south, the proposed development will accelerate the level and rate of discharge. The proposal is to discharge surface water into the existing open ditch drainage system. I note that no information is provided on the capacity of the drainage system to accommodate surface/storm water discharges. The Board, should it be minded to grant permission for the development, may wish to consider the applicant's proposal to provide an underground water retention /harvesting system to reduce storm water disposal.

Traffic

The proposed vehicular entrance to the site will be from the local road to the north in close proximity to the existing entrance. Visibility is reasonably in a western direction (Photograph No 6) but more limited in an eastern direction (Photograph No 5). Whilst the First Party rebuttal states that the required vision lines are achievable in both directions, it appears that 70 m visibility splays cannot be attained on the east side of the entrance due to the alignment of the road. It would appear on this basis that the provisions of Condition No 5 (c) are unenforceable and that the maximum sight line achievable is most likely to be in the region of 60m. This is below the minimum specified for an entrance for a single domestic entrance in Appendix A of the Plan. It may well be that improved sightlines in this direction could be achieved by the relocation of the access further west. However, in the absence of more detailed information on land ownership etc it is not possible to conclude that the applicant has sufficient interest in lands to west to achieve and maintain the required visibility splays.

Other Issues

I have concerns with respect to the site suitability assessment carried out and the recommendations made thereunder. The assessment of soils/subsoils was confined to a depth of 0.4 m below ground level. The underlying soils below this level are stated to be Gleys, which are indicative of impeded drainage conditions. I note that no attempt was made to establish T values. On the basis of the information submitted it is considered

that a septic tank and percolation area is not an appropriate system to treat the effluent due to in situ soil and subsoil characteristics. It is likely that the effluent will pond at the surface as it will not be able to migrate downwards due to the impermeability of the soils.

Note: The Board may consider the issues surrounding foul effluent treatment and disposal to be a new issue and avail of its powers under section 137 of the Act.

The Board will note that little information is provided on the housing need of the applicant. The site is located in an area identified as “Rural Area outside Towns and Villages’ and accordingly comes within the scope of Policy RH2 (as amended) of the Plan. In such areas it is the policy of the Plan to promote one-off housing for applicant’s demonstrating a bona fide ‘need’. Policy RH2 sets out criteria for applicant wishing to establish ‘need’ in these areas which includes people who are part of the rural community, people who work full/part time in rural areas, people whose work is intrinsically linked to the rural area, persons who have legally owned the land (including family members) prior to March 24th, 2000, returning emigrants etc. The applicant’s family home is located on the local road to the south of the site and I accept that he has ties/links with the area.

The issues raised by the Third Party with regard to overlooking are unfounded. The site is surrounded on all sides by land in agricultural use which coupled with the design characteristics of the house, proposed screening and the distances to the nearest dwellings restricts the potential for any overlooking of property.

I am in no position to vouch for the authenticity or otherwise of the appellants’. A valid submission/observation on the application was submitted to the planning authority, who do not appear to have any difficulty affecting delivery of notification of its decision to the address at Roelagh. It would appear, therefore, that there is no basis for the Board to challenge the bone fides of the appellants’ as requested by the applicant.

CONCLUSION

It appears that the applicants have sufficient links/ties with the area to qualify for consideration for a rural house under the provisions of Policy RH2 (as amended). I have given due consideration to the location, siting and design of the house and concluded that it is possible to integrate the development into the landscape without significant negative impacts on the visual amenities of the area. My major concerns with respect to the development relates to foul effluent treatment and disposal. It is my opinion that the proposed system is unsuitable having regard to prevailing site conditions. It has not been demonstrated that the site would be suitable for an alternative system involving secondary/tertiary treatment.

Whilst it is contended by the applicants’ that sightlines of 70m are available to the east of the proposed entrance, I would argue that this is not the case due to the alignment of the road.

RECOMMENDATION

Having considered the contents of the application, the decision of the planning authority, the provisions of the Sustainable Rural Housing Guidelines, the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission for the development be refused for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic movements that would be generated onto the adjoining local road where sightlines are restricted in an easterly direction.
2. Having regard to ground conditions prevailing on the site and the poor percolating properties of the site, the Board is not satisfied on the basis of the submissions made in connection with the application and the appeal, that the site cannot be satisfactorily drained by means of a septic tank and percolation area. It is considered that the proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

Breda Gannon
Inspectorate
April 14th, 2011.