



An
Bord
Pleanála

Inspector's Report ABP306370-20

Development	Construction of a single storey flat and pitched roof extension to the north-easts elevation of the existing dwelling to accommodate kitchen and bedroom accommodation.
Location	Ramonaghan Lane, Kill, Dunfanaghy, County Donegal.
Planning Authority	Donegal County Council.
Planning Authority Reg. Ref.	19/51590.
Applicant	Joe Dougherty.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	First / Third Party
Appellant	Wolf Real Estate Limited.
Observers	None.
Date of Site Inspection	24 th May, 2020.
Inspector	Paul Caprani.

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2.0 Introduction

ABP306370-20 relates to a third-party appeal against the decision of Donegal County Council to issue notification to grant planning permission for a single-storey extension to an existing dwellinghouse at a site outside the village of Dunfanaghy in North Donegal. The grounds of appeal argue that unauthorised works have already taken place on the site in question and concerns are also expressed in relation to the location of the septic tank on site and there is a lack of information regarding the planning application.

3.0 Site Location and Description

- 3.1. The appeal site is located at the end of a meandering narrow third class road which serves a high number of single houses located on the eastern outskirts of the village of Dunfanaghy in North Donegal. The subject site is located approximately 2 kilometres south-east of the centre of the village. The subject site and its surroundings are characterised by a relatively high density of one-off houses of various styles and sizes located on irregular plots fronting onto a series of local roads which join up to form a single access onto the N56 National Secondary Route to the north and east of the village on Dunfanaghy. The road serving the subject site ends in a cul-de-sac to the immediate west of the subject site.
- 3.2. The appeal site is located to the immediate north of the access road and occupies a relatively narrow and long parcel of land adjacent to the roadside. The site occupies an area of 0.238 hectares and is approximately 90 metres in length and 30 metres in depth. Lands along the northern boundary of the site incorporate a very steep downward slope towards undeveloped lands to the immediate north. The existing dwelling on site comprises of a small single-storey structure which faces eastwards with the gable end of the structure adjacent to the adjoining roadway. The existing dwellinghouse is surrounded by existing gravel hardstanding. Trees and shrubs are located along the northern perimeter of the site to the rear of the existing dwelling. The roadside boundary comprises of a low dry-stone wall to the west of the dwellinghouse while a low timber fence runs along the front boundary to the east of

the dwelling. The sliding timber fence provides a vehicular access to the front of the house. There are a number of dwellings in the immediate vicinity of the dwellinghouse including three dwellings located to the immediate south-east of the dwellinghouse and three dwellings to the immediate north-east of the dwellinghouse. There are a number of dwellings also located at the end of the cul-de-sac road to the west. The houses in the vicinity of the subject site are a mixture of holiday homes and permanent residential dwellings. It appears that the subject site may be used as a holiday home.

- 3.3. The drawings submitted indicate that the existing dwelling on site accommodates living accommodation and a small kitchenette and toilet.

4.0 Proposed Development

- 4.1. Planning permission is sought for the construction of a new extension contiguous to the northern gable of the dwelling. The T-shaped single-storey extension is to incorporate a new doorway in the northern gable end which is to provide access to a new galley type kitchen and the extension is to widen to accommodate two new bedrooms. The gross floor area of the proposed extension is 33 square metres bringing the total floor area of the house to 67 square metres.

5.0 Planning Authority Decision

Donegal County Council issued notification to grant planning permission subject to three standard conditions.

5.1. Planning Authority's Assessment

- 5.1.1. The planning application was received by Donegal County Council on 18th October, 2019. The planning application form indicates that the dwelling and extension to same is for the applicant's own use.
- 5.1.2. The planner's report notes that the principle of development is established on site and the proposed extension will integrate successfully into this rural area. The siting and design are acceptable subject to the external finishes matching the parent building. Access is via an established entrance and no issues arise in this regard. It

is also stated that there are no public health issues arising from the proposed development. Finally, the planning report states that having regard to the minor nature of the development there is no likely significant effects on the environment arising from the proposal. On this basis it is recommended that planning permission be granted subject to three standard conditions.

5.2. Observation

One observation was received by the current appellants objecting to the proposed development. The contents of this objection have been read and noted.

6.0 Planning History

The planner's report makes reference to one incomplete application on the subject site under Reg. Ref. 19/51497. The incomplete application related to the construction of a single-storey extension to the north-west of the existing dwelling to accommodate kitchen together with bedroom accommodation.

7.0 Grounds of Appeal

- 7.1. The decision of Donegal County Council to issue notification to grant planning permission was the subject of a third-party appeal from Natasha Doherty (Wolf Real Estate Limited). The grounds of appeal are outlined below.
- 7.2. The appellants state that they are the registered owners of adjoining property. It is stated that the applicant has recently erected a boundary fence incorporating a vehicular entrance and it appears that this fence has been erected on lands under the appellant's ownership. The appellants shall be seeking to have the fence altered or removed as a result. While the applicant claims to own the lands in question, they have not provided any mapped evidence to verify that development which has taken place has been entirely within the applicant's boundary. It was also stated that the vehicular entrance has been constructed without the benefit of planning permission and has not been constructed to allow the provision of vehicles to park off the roadway. It is also stated that sight lines from the newly formed vehicular entrance traverse the appellant's property and the appellant has not given any consent for

such vision lines. It is stated that the current entrance serving the development constitutes a traffic hazard and is unsafe due to adequate sight lines being provided.

- 7.3. The septic tank shown on site is referred to as “existing septic tank”. The appellants are concerned that this tank may have been newly placed on site and it did not previously exist at this location. If this is the case the works have been completed without the benefit of planning permission. The new septic tank does not show any evidence of a percolation or drainage area and no details are provided in relation to the capacity and condition of the tank to cater for the additional floor area proposed. It is suggested that the provision of additional bedrooms will place an additional loading on the system. It is stated that the applicant’s property is located immediately downslope of this tank and will therefore be negatively impacted upon by way of foul water pollution. Details in relation to stormwater, flooding and environmental health considerations all require further clarification.
- 7.4. An unauthorised mobile home which previously existed on site has now been removed. The appellants however remain concerned that the new extension is a self-contained unit to compensate for the loss of the mobile home development. Concern is expressed that no information has been provided in relation to housing need.
- 7.5. It is considered that plans in particular submitted in support of the application lack detail and suitable information in order to permit an informed decision to be made.

8.0 Appeal Responses

- 8.1. A response was received on behalf of the applicant from Usonia Architects. The response is summarised below.
- 8.2. By way of introduction the response to the grounds of appeal contends that the current appeal is predicated on the fact that the applicant objected to two applications for a dwelling by the appellant. What is proposed in this instance is a modest extension and the extension proposed has the support of many surrounding residents (see letter in support of the application attached to the response to the grounds of appeal).

- 8.3. In relation to the land boundary dispute issue, reference is made to the publicly available records hosted on the Property Registration Authority to confirm site boundaries. The subject fence is setback off the edge of the public road and terminates more than 13 metres from the eastern boundary of the site. Reference is also made to the Donegal County Council planner's report where it is stated that the fence has no impact either on the road or vision lines.
- 8.4. It is stated that vision lines from the site entrance as indicated on Drawing PL2 do not cross any lands owned by the appellant. It is also stated that the current boundary fence along the public road follows the route the previous boundary along the front of the site. The location of the site entrance has not been moved with the incorporation of the new fence.
- 8.5. With regard to comments made in respect of the septic tank, it is stated that the appellant's entire commentary is based on conjecture and speculation. The applicant confirms that the dwelling has always been connected to a septic tank at this location. The proposals will add one shower to the hydraulic loading generated by the house. Previously the subject site had outside taps for washing out the sheds and the yard. It is argued therefore that the proposed shower is utilising this spare capacity.
- 8.6. In relation to flooding, it is stated that the applicant made an error in indicating Question 18 of the planning application form that the subject site prone to flooding. The applicant assures the Board that the site has never been flooded and that there is no knowledge of any flooding issues regarding the site.
- 8.7. The applicant acknowledges that a mobile home was located on the subject site. However, this was removed immediately when the applicant was informed that this was in breach of planning. Finally, the grounds of appeal suggest that the proposed extension is to construct a self-contained unit. The current dwelling incorporates a water closet as part of an open plan room which now serves as a living room. No longer having a mobile home for bedroom accommodation, the application is based on the need to simply raise the existing standard of accommodation to an acceptable level for the applicant.
- 8.8. By way of conclusion the response states that the applicant is the third generation of his family to own this dwelling and the dwelling was the home of his grandparents

and his mother. It is argued that the grounds of objection are purely vexatious and aim to frustrate the applicant's proposal to make a modest and sympathetic addition to the historic family home.

8.9. A number of attachments are contained in the applicant's response to the grounds of appeal.

8.10. **Planning Authority's Response to Grounds of Appeal**

It appears that Donegal County Council have not submitted a response to the grounds of appeal.

9.0 **Development Plan Provision**

9.1. The site is governed by the policies and provisions contained in the Donegal Development Plan 2018-2024. The site is located within an area designated as being of 'moderate scenic amenity' as identified in Map 7.1.1 of the Plan. It is the policy of the Council to facilitate development of a nature, location and scale that allows such development to integrate within and reflect the character and amenity designation of the landscape.

9.2. Policy RH-P-6 relates to the refurbishment of existing dwellings and buildings. Sub-section 6 states that proposals for extensions in the case of refurbishment shall, in general not exceed 50% of the size of the original building up to a maximum floor area of 90 square metres. The design, size, height and finishes of the proposed refurbishment/extension must respect the architectural character of the original building type unless otherwise agreed with the Planning Authority and the finished building must otherwise be of a scale and form that the development integrates effectively with the host landscape.

10.0 **EIS Screening Determination**

The proposed extension to the existing dwellinghouse does not constitute a class of development for which EIA is required.

11.0 Planning Assessment

I have read the entire contents of the file, have had particular regard to the issues raised in the grounds of appeal and have visited the subject site and its surroundings. I consider the following issues to be pertinent in determining the current application and appeal before the Board.

- Principle of Development
- Land Ownership Issues
- Roadside Boundary Issues including Sight Lines
- Roadside Boundary Issues
- Septic Tank Issues
- Flooding Issues
- Self-contained Unit

11.1. Principle of Development

11.1.1. The proposed extension is located on a site where residential use is established.

There is an existing, albeit small house located on site and the subject site is surrounded by residential development. References in the grounds of appeal therefore in relation to housing need, is not required to be established in this instance as the principle of residential development has already been established on the site. The Board therefore can restrict its deliberations as to whether or not the extension is appropriate.

11.1.2. I consider that the extension in this instance will provide much needed accommodation within the existing dwelling. It is clear from the drawings submitted with the application that currently no separate sleeping accommodation is provided for within the existing layout of the dwelling. With the exception of an existing toilet the living, dining room and bedroom accommodation is all contained within a single internal room. The proposed extension at 33 square metres is modest and, in my view, subservient to the existing dwellinghouse and is located adjacent to the northern gable end of the building away from the public road. The proposed extension seeks to provide a new bathroom including shower within the existing building and a new kitchen together with two modestly sized bedrooms. The ridge

height of the proposed extension slightly exceeds the ridge height of the existing dwelling, however at just over 4 metres in height, the ridge height of the proposed extension cannot be considered to be excessively large and would not result in a visually dominant structure in the context of the overall site. The proposed extension reflects the vernacular qualities of the existing structure on site and is therefore appropriate in design terms. As the proposed extension is sympathetic in style to the existing structure on site and incorporates external finishes which are reflective of the existing structure the proposed extension is in my view acceptable in principle.

11.1.3. The remainder of this assessment will briefly deal with the various issues raised in the grounds of appeal.

11.2. Land Ownership Issues

11.2.1. The grounds of appeal suggest that the recently constructed boundary fence and vehicular entrance has been erected on lands in the appellant's ownership and without the appellant's consent. No documentation has been submitted supporting this claim. The DoEHLG Development Management Guidance (June 2007) make it clear that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. These matters should be resolved in a court of law. It is therefore beyond the remit of the Board to adjudicate upon land ownership issues particularly in the absence of evidence being provided.

11.3. Roadside Boundary Issues Including Sight Lines

11.3.1. The grounds of appeal argue that the vehicular entrance has been developed without the benefit of planning permission. This issue was also raised with Donegal County Council. However, the Council in its assessment of the proposal did not raise any concerns in respect of unauthorised development regarding access and vehicular arrangements. Paragraph 9.4 of the planning report states, "access is via an established entrance and there are no issues arising". It appears therefore that Donegal County Council did not have any enforcement concerns in relation to the access as constructed. Furthermore, the current application and appeal before the Board relates to the proposed extension to the dwellinghouse. Any issues in relation to unauthorised development on site is an enforcement issue and therefore a matter for the Planning Authority and not An Bord Pleanála; if it were the case that unauthorised development took place. The Board should in this instance restrict its

deliberations to the current application before it, namely the extension to the existing dwelling.

11.4. Roadside Boundary Issues

11.4.1. It is clear from both my site inspection and the drawing submitted that an existing vehicular entrance has been established on site. The current application before the Board relates to the proposed extension to the existing dwelling and does not involve any new access onto the public road. As the application does not involve a new access onto the public road any issues in relation to sight lines associated with the established access are not a matter for the Board in determining the current application and appeal.

11.5. Septic Tank Issues

11.5.1. The grounds of appeal suggest that the existing septic tank "may" [my emphasis] have been a newly placed treatment system on the site which did not previously exist at this location. The septic tank in this instance is located in the north-eastern corner of the site. The applicant states that the septic tank serving the dwellinghouse has always been situated at this location within the site. Again, the grounds of appeal offer no evidence that the tank in question "may have been newly placed on site".

11.5.2. Concern is also expressed that the septic tank may not have the capacity to deal with the hydraulic loadings associated with the proposed extension. In terms of hydraulic and organic loading, the existing septic tank caters for an existing toilet and bathroom sink as well as a kitchen sink as indicated in the drawings submitted. As a result of the proposed extension it is also proposed to accommodate a new shower. Any hydraulic loadings associated with the new shower will in my view be modest and should not result in any capacity issues for the existing treatment system on site. The existing septic tank is required to cater for a single bathroom and kitchen associated with the dwelling which would result in relatively modest loadings which would not result in any overloadings of a standard proprietary wastewater treatment system. There is no reason to conclude that the proposed extension in this instance would exacerbate the risk of foul water pollution as suggested in the grounds of appeal.

11.6. Flooding Issues

11.6.1. The grounds of appeal point out that in response to Question 18 of the planning application form the applicant indicates that the site has previously flooded. It is on this basis that the grounds of appeal argue that further details in relation to stormwater flooding and environmental health require a further clarification. The applicant in his response to the grounds of appeal states that the planning application form inadvertently indicated that the site was prone to flooding and the answer to this question was made in human error. Having inspected the site I note that the site in question is located on relatively elevated lands in comparison with surrounding lands particularly lands to the north and north-west of the site. It is unlikely therefore that the lands would be prone to or subject to flooding. The OPW flood maps further indicate that the subject site or indeed lands surrounding the site experience flooding.

11.7. Self-contained Unit

11.7.1. The last issue raised in the grounds of appeal notes that an unauthorised mobile home previously existed on site and now that this mobile home has been removed concern is expressed that the proposed new extension is “*a self-contained unit to account for the loss of the mobile home development*”. What is proposed in this instance is a modest extension to an existing small dwellinghouse in order to provide appropriate living accommodation in order to facilitate separate bedroom accommodation and an appropriately sized bathroom to cater for the needs of the occupants. The proposed development would therefore constitute a self-contained unit which would meet the needs of the applicant. To argue that the proposed new extension constitutes a self-contained unit which in itself is contrary to the proper planning and sustainable development of the area is not a tenable argument in my opinion and should be dismissed by the Board.

12.0 Conclusions and Recommendation

Arising from my assessment above I consider the proposed extension to be appropriate and acceptable in the design terms and therefore in accordance with the proper planning and sustainable development of the area and on this basis I

recommend that the Board uphold the decision of the Donegal County Council and grant planning permission for the proposed development.

13.0 Appropriate Assessment

The nearest Natura 2000 site to the proposed development is the Sessiagh Lough SAC which is located at its closest point approximately half a kilometre to the south-east of the subject site. There are no watercourses in the vicinity of the subject site which are hydrologically connected to the Natura 2000 site in question. Thus, having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on a European site.

14.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

15.0 Reasons and Considerations

It is considered that the proposed extension to the existing dwelling, subject to conditions set out below would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.
Where such conditions require details to be agreed with the planning

authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The external finishes of the proposed extension including roof tiles or slates shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation of surface water shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

Paul Caprani,
Senior Planning Inspector.

25th May, 2020.