



An Bord Pleanála

Inspector's Report

Development: Construction of a house and associated works at Derryconnor, Gortahork, Letterkenny, Co. Donegal

Planning Application

Planning Authority: Donegal County Council

Planning Authority Reg. Ref.: 15/51384

Applicant: Jamie O'Brien

Type of Application: Permission

Planning Authority Decision: Refuse

Planning Appeal

Appellant(s): Jamie O'Brien

Type of Appeal: 1st Party

Observers: None

Date of Site Inspection: 07/03/2016

Inspector: L. Dockery

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The subject site, which has a stated area of 2.9 hectares, is located within the townland of Derryconnor, Gortahork, Co. Donegal. The site has frontage onto the R257 and has panoramic views over Ballyness Bay. The site is substantially elevated above the public roadway and is currently undeveloped. Vegetation is of poor quality, the site is overgrown with a bog like vegetation.
- 1.2 There are a number of one-off dwellings in the immediate vicinity of the site.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development, as per the public notices, comprises permission for dwelling house and septic tank at Derryconnor, Gortahork, Co. Donegal.
- 2.2 The subject dwelling, which is two-storey in height, has a stated area of 235 square metres and a maximum height of 7.85 metres. Floorplans comprise living accommodation, bedroom, bathroom and utility with toilet at ground floor level with 3 bedrooms, study and two WCs at first floor level.
- 2.3 Water shall be from mains supply while proposed wastewater treatment shall be by a conventional septic tank system. The actual site boundary is unclear on the submitted drawings. It would appear from the drawings that the proposed percolation area may be outside the site area, as defined.
- 2.4 It is noted that drawings relating to site levels and site sections are not available on file. In addition, no details of trial hole locations were indicated on the submitted drawings.

3.0 PLANNING AUTHORITY'S DECISION

3.1 Planning permission REFUSED for two no. reasons as follows:

1. The subject site is located in a visually exposed and steeply sloping site covered in blanket bog type vegetation on a prominent hillside above and adjoining the R257 regional road and overlooking Ballyness Bay. It is a policy of the County Development Plan 2012-2018 (as varied) that a new rural dwelling must be “of an appropriate design, integrate successfully into the landscape, and not cause a detrimental change to, or further erode the rural character of the area” and that ‘a new dwelling that relies on significant earth works such as cutting into slopes...will all be unacceptable’ (Policy RH-P-2 refers). It is considered that the proposed development by reason of (i) its siting on a visually exposed site covered by blanket bog vegetation, (ii) its siting on a prominent hillside adjoining and above the regional road and overlooking Ballyness Bay (iii) siting on a steeply sloping site and the associated likely extent of excavation likely to necessitate the development and (iv) the 1.75 storey nature of the dwelling proposed would result in a visually strident and intrusive development imposed upon a sensitive landscape in a manner which would be seriously injurious to the visual amenities and rural fabric of the host environment. Accordingly, to permit the proposed development would be contrary to Policy RH-P-2 of the County Development Plan 2012-2018 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.

2. It is a policy of the County Development Plan 2012-2018 (as varied) that “all development proposals comply with the Development and Technical Standards set out in Chapter 10 to promote road safety”- (Policy T-P-15 refers) and it is a requirement of Section 10.2.10 of the said Chapter 10 of the

said Plan that visibility splays shall be set out in accordance with Table 23 thereof. Having regard to the failure of the particulars submitted with the application to demonstrate visibility splays in accordance with the requirements of Table 23 of the said Chapter 10 of the said Plan the planning authority is not satisfied on the basis of the information submitted that safe visibility splays can be provided in each direction to the required standards. Accordingly to permit the proposed development would result in dangerous traffic cross-over movements into and out of the site both during and post construction, would endanger public safety by reason of a traffic hazard, would be contrary to Policy T-P-15 of the said Plan and would thereby be contrary to the proper planning and sustainable development of the area.

4.0 TECHNICAL REPORTS

Planner's Report

The report of the planning officer generally reflects the decision of the planning authority.

An Appropriate Assessment was undertaken by the planning authority which concludes that the proposed development will not have a significant adverse effect on European sites

Environmental Health Officer

The location of the septic tank and percolation area for the dwelling to the north was not shown on the layout. They are likely to be very close to this site.

Further Information requested

Irish Water

No objections, conditions attached

5.0 EXTERNAL REPORTS

5.1 None

6.0 APPEAL GROUNDS

6.1 The grounds of appeal may be summarised as follows:

- Refutes claims that site is visually exposed, steeply sloping and covered in blanket bog- no bog on site, soil is gravel based with very little vegetation growth
- Site positioned on level plateau with no need to excavate
- House will not be visually exposed, will nestle into hill to the west
- No ribbon development- proximity of nearest dwelling is 25 metres- design in keeping with that of neighbouring dwelling
- Outlines examples of permissions granted
- Queries whether holiday homes take precedent over indigenous rural community
- Can achieve vision lines as required
- Outlines personal information stating that he has resided in Derryconnor all his life- father gave him this land on which to build- no other land to build on, no means to buy another site- land in family as far as they can trace roots- works in England as a machine driver
- Planning permission will allow him become an intrinsic member of community
- Submits photographs in support of appeal, together with map outlining details of permission granted

7.0 OBSERVERS

7.1 None

8.0 RESPONSES

8.1 A response was received from the planning authority, in which no new issues were raised.

9.0 PLANNING HISTORY

9.1 None

10.0 DEVELOPMENT PLAN

10.1 The operative Development Plan is the Donegal County Development Plan 2012-2018

10.2 The subject site is considered a Stronger Rural Area, Type 2 as designated in the operative County Development Plan.

10.3 The subject site is located in proximity to Falcarragh to Meenlaragh SPA (Site Code 004149) and Ballyness Bay SAC (Site Code: 001090).

10.4 Policy RH-P-2

It is a policy of the Council to permit a new rural dwelling which meets a demonstrated rural need (see Policies RH-P-3–RH-P-6) provided the development is of an appropriate quality design, integrates successfully into the landscape, and does not cause a detrimental change to, or further erode the rural character of the area. In considering the acceptability of a proposal the Council will be guided by the following considerations:-

1. A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in the rural area;
2. A proposed dwelling shall not create or add to ribbon development (see definitions);
3. A proposed dwelling shall not result in a development which by its positioning, siting or location would be detrimental to the amenity of the

area or of other rural dwellers or would constitute haphazard development;

4. A proposed dwelling will be unacceptable where it is prominent in the landscape; and shall have regard to Policy T-P-15.

5. A proposed dwelling will be unacceptable where it fails to blend with the landform, existing trees or vegetation, buildings, slopes or other natural features which can help its integration. Proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. The extent of excavation that may be considered will depend upon the circumstances of the case, including the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings (as elaborated below).

10.5 Policy T-P-15

It is a policy of the Council to require that all development proposals comply with the Development and Technical Standards set out in Chapter 10 to promote road safety

10.6 *Sustainable Rural Housing, Guidelines for Planning Authorities (2005)*

- The subject site is located within an area designated as being as 'Predominantly Dispersed Settlement Area' within these Guidelines
- Section 3.2.3 deals with 'Rural Generated Housing'
- Section 3.3.3 deals with 'Siting and Design'

11.0 ASSESSMENT

11.01 This application is assessed in terms of Development Plan policy and all other relevant Government Guidelines. I have conducted a visit of the site and its environs and have decided to assess this application de novo. I consider that the following are the main issues pertaining to this appeal:

1. Compliance with rural housing policy in relation to provision of dwellings in rural areas
2. Impacts on amenity
3. Traffic and Access issues
4. Other issues including wastewater treatment
5. Appropriate Assessment

11.1 COMPLIANCE WITH RURAL HOUSING POLICY FOR PROVISION OF DWELLINGS IN RURAL AREAS

11.1.1 Section 5.3 of the operative County Development Plan sets out the general rural development objectives to be considered when assessing an application for a dwelling in the rural area. It has been established that the subject site is located within a rural area, designated as being a Stronger Rural Area, Type 2, within the operative County Development Plan and is located within an area designated as being a 'predominantly Dispersed Settlement Area' within the Sustainable Rural Guidelines. The site is located within a scenic, rural, coastal area, and therefore demand for such developments is expected to be high at such locations.

11.1.2 Policy RH-P-3 of the Plan applies to Stronger Rural Areas and states that it is a policy of the Council to facilitate an individual housing in need of housing provided they demonstrate that they can comply with all relevant other policies of the Plan. Having regard to the information

contained within the file, it would appear that the applicant is from the general area. While I accept this, I do question if the applicant has a need for a dwelling at this scenic location and I draw the attention of the Bord to this. The applicant is stated to be a machine driver in England at the present time and while I accept his desire to move back to Ireland, I question whether his accommodation needs could be fulfilled within a designated settlement area, where there is adequate service provision rather than within a rural, scenic area such as that proposed where there are is a lack of services and an inadequate road network.

11.2 IMPACTS ON AMENITY

11.2.1 This is an issue of concern considering the scenic rural area in which it is proposed to construct the proposed development and I note that this issue formed the first reason for refusal which issued from the planning authority. This is a major tourist area being in close proximity to the coast. The subject site is located in close proximity to the shoreline, in close proximity to the Falcarragh to Meenlaragh SPA and Ballyness Bay SAC and there are excellent coastal views from it. This area could accurately be described as being a wild, exposed, coastal landscape. The site itself is very exposed, being significantly elevated above the public roadway. There is significant frontage development evident within the immediate vicinity, all of which is leading to the suburbanisation of this rural area. I draw the attention of the Bord to the fact that the submitted drawings are of poor quality with no site sections, no contour drawings and no drawings showing how the proposed dwelling is to be assimilated into the landscape.

11.2.2 While I acknowledge that the applicant may satisfy the rural housing policy in relation to being a native of the area, I do question the proposal before me in terms of its impact on the rural environment into which it is proposed to be placed. I consider the location of the subject site to be inappropriate. This is a scenic, coastal area in very close proximity to the sea and any development at this location has the

potential to detract significantly from the amenity of the area. This is especially true considering the exposed and elevated nature of the site. The general area is quite densely populated with one-off dwellings and I consider that to add further to the existing suburbanisation of this rural area would further exacerbate the issue and this would not be in the interests of the proper planning and sustainable development of the area. I consider that the proposal as submitted would further blur the distinction between urban and rural at this location and if permitted would set an undesirable precedent for further similar developments in the vicinity. This would be exacerbated by the proposal to remove the roadside hedgerow along the length of the site and the bend in the roadway to the south of the site. Contrary to the opinion of the appellant, I believe that without doubt, substantial groundworks would be required to enable the site accommodate a dwelling such as that proposed. No details of how the proposed dwelling will be assimilated into the landscape have been submitted, neither have any site sections.

11.2.3 Having regard to the above, I consider that the proposal would add to the already extensive development that exists in this area and that it would add to the further suburbanisation of this exposed coastal area. It is my opinion that it would form a discordant and obtrusive feature on the landscape at this location; would be seriously injurious to the visual amenities of the area and would set an undesirable precedent for other development in the vicinity.

11.3 ROADS AND TRAFFIC ISSUES

11.3.1 The second reason for refusal which issued from the planning authority related to issues of access and the provision of adequate vision splays. The planning authority concluded that the proposed development would endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and sustainable development of the area. Having examined the information before me, I would concur with this assertion and have serious reservations in relation to the proposed

access and visibility splays. The proposed access is opening onto a regional roadway that is inadequate in alignment and has a solid white line along its centre. Visibility along the roadway is poor with it being characterised by numerous bad bends. The additional traffic movements associated with the proposed development have the strong potential to lead to obstruction of road users and the creation of a traffic hazard at this location. The proposal is therefore considered unacceptable and inconsistent with the proper planning and sustainable development of the area.

11.4 OTHER ISSUES

11.4.1 As I have stated above, I have concerns regarding the existing density of development in the vicinity of the site. There are already a considerable number of dwellings constructed within the immediate vicinity. Water supply is proposed by means of a connection to mains supply with a septic tank proposed to deal with wastewater. Considering the location, I can only assume that existing dwellings in the vicinity are currently operating similar systems, namely individual waste-water treatment units. I note the vegetation evident on site, poor quality bog like vegetation. I also note that the location of trial holes was not indicated on the submitted drawings. Considering the elevated nature of the site, excavation works will be necessary to accommodate the proposed septic tank system. I question the capacity of the site to accommodate a unit such as that proposed. I also note that details of the septic tank and percolation area of the adjoining property have not been included in the file, even though the issue was raised in the application lodged with the planning authority. The appellant had opportunity to submit such details as part of his appeal submission, but chose not to. Having regard to all of the above, I would have concerns with regards to the proliferation of such wastewater treatment units in the area, the impacts that they may have on the environmental quality and the possible increase in the likelihood of contaminants reaching water sources in the vicinity. This is considering the proximity of the sea to the subject site. It is therefore considered that, taken in

conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by waste water treatment units in the area. I am also not satisfied that the site has the capacity to accommodate a development of the nature and scale proposed. The proposed development, would, therefore, be prejudicial to public health and accordingly I recommend a refusal of permission for this reason.

11.5 APPROPRIATE ASSESSMENT

11.5.1 The subject site is located in close proximity to Falcarragh to Meenlaragh SPA (Site Code 004149) and Ballyness Bay SAC (Site Code: 001090). The subject site is located within 45 metres of Ballyness Bay SAC and within 30 metres of the Falcarragh to Meenlaragh SPA. Ballyness Bay is situated in north-west Donegal and is a large and very shallow estuarine complex with extensive areas of sandflats which are exposed at low tide. These sandflats have a rich macro-invertebrate fauna. Fixed dunes are of particular importance. The rare whorl snail, a species listed in Annex II of the EU Habitats Directive is found at this site and the site is also important for waterfowl. Falcarragh to Meenlaragh SPA is located on the eastern and western sides of Ballyness Bay and this large site encompasses three areas of mixed agricultural grassland. This site supports a breeding population of corncrake, which is listed on the 2010 International Union for Conservation of Nature (IUCN) Red List of Threatened Species, in addition to being listed on Annex I of the EU Birds Directive.

11.5.2 The Planning Authority, in their report dated 30/11/2015 considered that Appropriate Assessment of the development was not required as it can be excluded on the basis of the objective scientific information that the proposed development will have a significant effect on the abovementioned nearby Natura 2000 sites.

11.5.3 This issue has not been addressed by the first party. I consider this to be a rural area, albeit suffering from the effects of significant

suburbanisation as a result of a proliferation of one-off houses. Notwithstanding this, the subject site is undeveloped at the present time, with the ground conditions witnessed already detailed above. Its distance from the coast is noted. The elevated nature of the site is also noted. The fact that it is located in such close proximity to designated sites is also noted. On the basis of the information provided with the application and appeal I am not satisfied that the proposed development individually, and in combination with other plans and projects would not be likely to have a significant effect on the European Site No.s 004149 and 001090 in view of the site's conservation objectives. I draw the attention of the Bord to this issue.

12.0 CONCLUSION

- 12.1 Having addressed the matters arising, I am not satisfied that the proposal is an acceptable form of development at this location. The subject site is located within a rural exposed coastal area, and I consider that any development at this location has the potential to detract significantly from this rural area and impact negatively on the rural amenities that currently exist. This is especially true given the quantum of development that currently exists within the general vicinity of the site. It is considered that the proposed development if permitted would form a discordant and obtrusive feature on the landscape at this location; would be seriously injurious to the visual amenities of the area; would lead to the further suburbanisation of this rural area and would set an undesirable precedent for other development in the vicinity.
- 12.2 The issue of roads and access is another issue and I am not satisfied that the proposal before me will not lead to the creation of additional turning movements; obstruction of road users and the creation of a traffic hazard. I also raise concerns regarding the proliferation of waste-water treatment plants within the vicinity, and am not satisfied that the site has the capacity to accommodate the development

proposed. I am therefore inclined to take a precautionary principle in this instance.

12.3 I also raise some concerns in relation to the impact of the proposed development, taken in conjunction with existing development within the vicinity on proximate Natura 2000 sites.

12.4 Having regard to all of the above, I consider the proposal unacceptable and inconsistent with the proper planning and sustainable development of the area.

13.0 RECOMMENDATION

In light of the above assessment, I recommend that the decision of the planning authority be UPHeld and that permission be REFUSED for the following reasons and considerations.

REASONS AND CONSIDERATIONS

1. Having regard to the unscreened nature of this exposed coastal site, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location; would be seriously injurious to the visual amenities of the area; would lead to the further suburbanisation of this rural area and would set an undesirable precedent for other development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the inadequate road network onto which it is proposed to access the development, it is considered that the proposal, both by itself and the precedent it would set for other developments, would endanger public safety by reason of a traffic hazard and

obstruction of road users and would be inconsistent with the proper planning and sustainable development of the area.

3. It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by waste water treatment plants in the area. In addition, having regard to the ground conditions, the Bord is not satisfied that the site has the capacity to accommodate a development of the nature and scale proposed. The proposed development, would, therefore, be prejudicial to public health.
4. Based on the inadequate information submitted within the file, the Board is not satisfied that the proposed development individually, and in combination with other plans and projects would not be likely to have a significant effect on the European Site No.s 004149 and 001090 in view of the site's conservation objectives.

L. Dockery

Planning Inspector

06th April 2016