



An
Bord
Pleanála

Inspector's Report 05E.247960

Development	Dwelling house, detached garage & wastewater treatment system with polishing filter & all associated site works.
Location	Millbrook, Letterkenny Co Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	16/51384
Applicant	Garry & Imelda McMahon
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	Brian Parke
Date of Site Inspection	4 th April 2017
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is located west of the town of Rathmullan, in the townland of Millbrook, Letterkenny Co Donegal. The site is located on a laneway off a local road which extends from the regional road south west of Rathmullan. The local road follows a winding uphill route from which other routes branch off, including the private road which serves the site, an adjoining dwelling to the north and the third party's dwelling to the south. The land in this area rises fairly steeply from the edge of Lough Swilly and there is a noticeable amount of one-off rural houses.
- 1.2. A fast flowing stream flows along the private access road / laneway for over half of its length and is culverted under the driveway at the junction with the public road. It then flows along the public road. The private driveway is finished in gravel.
- 1.3. The site is given as 0.404ha on the application form, 0.386ha on the layout plan.

2.0 Proposed Development

- 2.1. The proposed development is the erection of a dwelling house and detached garage & the provision of a wastewater treatment system with polishing filter & all associated site works. The proposed dwelling will be served by mains water supply.
- 2.2. The dwelling is two storeys with a 2.4m high attic space, 8.4m from floor to roof apex with a slated roof., c16m width x 14.5m (max depth); 259 sq m in floor area. The garage is 6.6m x 5.6m x 5.2m to roof apex; with a slated roof.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided, 12/1/2017, to grant permission subject to 11 conditions, including:

2: restricting occupation for 7 years to the applicant.

3: provision of permanent visibility splays of 50m in each direction from 2.4m back from the road edge.

4 adequately sized stormwater system discharging to the stream to be submitted to the PA.

5 no surface water to discharge to the public road.

6: entrance to incorporate a cattle grid / drainage channel.

10: retention of hedgerows.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first planning report recommended that further information be requested on 5 points: 1) to show how adequate vision lines can be achieved at the junction of the access with the public road or to carry out a speed survey; 2) how stopping sight distances are to be provided at the access with the public road, 3) how two-way traffic can be catered for on the private access road, 4) clarification in relation to water supply connection, and 5) proposals for the collection and disposal of surface water.
- AA screening report, AA not required.
- A further information request issued in accordance with the recommendation.

3.3. Other Technical Reports

- EHO - conditions.
- Area Engineer – no objection.

3.4. Further Information Response

- Response: 1) Traffic Survey Report shows requirement for vision lines of 31m, a stopping distance of 50m. 60m vision lines achievable north east and 134m north west. 2) layout plan shows achievement of vision lines and stopping distances. 3) there is no issue with vehicles manoeuvring in the laneway, there is good vision of oncoming traffic and the laneway is sufficient to allow for cars to pull over, 4) water will be from the existing Millbrook Group Scheme, which has been taken over by the Council, to be taken as a connection from applicant's brothers supply, 5) storm drainage will be piped to a pre-existing drain where the onsite gully is connected to a 450mm pipe

which runs to the existing stream along the road verge of the L5452-1. It is further proposed to install a cattle grid at the site entrance and run a secondary 225mm pipe to the south west across the landholding to discharge to the existing stream.

3.5. Further Planning Report

- The second planning report refers to the further information request response: the report notes that two vehicles could not pass between the stone piers at the driveway entrance but that immediately inside the piers there is sufficient width for vehicles to pass, and the laneway is capable of taking the additional traffic; and finds the responses to all items satisfactory.
- Permission recommended.

3.6. Prescribed Bodies

3.7. Irish Water – Condition re connection to water services.

3.8. Observation

3.9. An observation on the file has been read and noted.

4.0 Planning History

03/7813 – to north – permission for single dwelling and detached garage granted to Nigel Patton.

04/8257 – to north – permission for alterations to previously approved 03/7813 to include repositioning of septic tanks and percolation area, repositioning of existing driveway and repositioning of boundaries to reduce overall site area, garage granted to Nigel Patton.

5.0 Policy Context

5.1. Development Plan

The County Donegal Development Plan 2012-2018 is the operative plan.

Relevant provisions include:

The site is in a rural area designated as a structurally weak rural area. The policy is to facilitate any individual with a need for a dwelling, urban or rural generated need, provided they can comply with other policies. RH-P-4. Among the constraints on rural housing is that a proposed dwelling shall avoid the creation or expansion of a suburban pattern of development and shall not create or add to ribbon development (RH-P-2).

Stopping sight distances to be in accordance with table 24; deviation from the requirements may be considered upon certification by the applicant's designer to be designed and constructed in accordance with NRA DMRB.

5.2. Natural Heritage Designations

Lough Swilly SAC (Site Code 002287) is located 430m from the site (Rathmullan Wood), and Lough Swilly SPA (Site Code 004075), is located c830m from the site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal includes:

The development is contrary to RH-P-2 of the development plan and would give rise to a suburban pattern of development in a piecemeal fashion.

Storm water is not adequately addressed. The development will increase hardstand and runoff. Stormwater from the lands are constantly overflowing onto appellant's lands. The access road is constantly being damaged and torn up by surface water

from the subject lands. Storm water calculations should have been provided to support the application.

Treatment of foul effluent is of concern. The depth of the water table given at 1.5m cannot be correct. Report states ground water and surface waters are at risk. Extreme vulnerability and poor aquifer are not adequately considered.

Private road is narrow and long and without passing bays. The further information shows a passing bay at appellant's house which is not entitled to be so used.

The traffic survey was not conducted per standards in the advisory document TA 22/81 the duration is not proper and results are not calculated correctly. The stopping distance is not in accordance with table 24 Section 10.2.12 of the development plan, where the minimum stopping distance is 70m regardless of vehicle speed.

6.2. **Planning Authority Response**

6.3. The Planning Authority has responded to the grounds of appeal, referring the Board to the planner's report.

6.4. **First Party Response**

6.5. Dominic Whoriskey Building Design & Surveying has responded on behalf of the first party to the grounds of appeal, including:

6.6. Responding to the grounds that the development would give rise to a suburban pattern of development in a piecemeal fashion, policy RH-P-2 of the development plan is to permit a new rural dwelling which demonstrates rural need, provided it 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. The Council would have been guided by various considerations, including whether a proposed dwelling avoids the creation or expansion of a suburban pattern of development.

There is adequate separation between the proposed house and others to avoid giving rise to a suburban pattern of development.

The area has capacity for the development, being in a structurally weak area.

- 6.7. Responding to the grounds that storm water is not adequately addressed. There are no current issues with stormwater onto the appellant's lands and no evidence to support the claims.

The existing runoff is collected at the entrance to the applicants site via an access channel running to a 450mm pipe. This pipe is maintained by the applicant's family and there has never been any issue with this pipe.

The proposal includes installation of a secondary pipe and cattle grid at the entrance discharging to a stream.

There is no possibility of runoff to adjacent lands.

Hardstanding has been kept to a minimum, gravel will be used. Runoff from the roof will be collected and piped.

- 6.8. Responding to the grounds re. concern about the treatment of foul effluent; that the depth of the water table given at 1.5m cannot be correct; site assessment test results were consistent with the ground conditions observed at the time of inspection. Based on the information submitted with the application the proprietary wastewater system will function adequately, will meet EPA guidelines, and Donegal County Council's Environmental Health Dept. are satisfied.

The GSI land classification of the locality is the same category as the majority of ground conditions in Donegal.

- 6.9. Responding to the grounds that the private road is narrow and long and without passing bays, etc.; there are no proposals to widen the road. There is a natural pull over point in front of the appellant's property, if required, without any inconvenience to the appellant.

The traffic survey was carried out per TA 22/81. The local road is a low trafficked road. The vision lines are in accordance with table 23 of the development plan, where the minimum derogation that can be sought is 50m. There is 60m clear vision lines to the east and 134 to the west. The proposed development will not give rise to a traffic hazard. There was no objection from the Roads Department.

7.0 **Assessment**

7.1. The issues which arise in relation to this appeal are appropriate assessment, principle of development, surface water, wastewater and traffic safety and the assessment is addressed under these headings.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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 or projects, on a European site.

7.3. **Principle of Development**

7.4. Notwithstanding that in this area is a structurally weak area, where such restrictions would not apply, the planning authority is satisfied that the applicant is connected with the area and has attached a condition, condition no. 2, to restrict the occupancy of the dwelling.

7.5. The third party states that the proposed dwelling would give rise to a suburban pattern of development in a piecemeal fashion and in this regard refers to policy RH-P-2 of the development plan.

7.6. The first party response is that there is adequate separation between the proposed house and others to avoid giving rise to a suburban pattern of development.

7.7. Policy RH-P-2 includes that a proposed dwelling should avoid the creation or expansion of a suburban pattern of development and should not create or add to ribbon development. The proposed development is located off a local road and therefore does not contribute to any ribbon effect along the road. There is a noticeable amount of one-off rural houses in this area, nevertheless I consider that the proposed development is acceptable in principle.

7.8. **Surface Water**

7.9. The grounds of appeal states that storm water is not adequately addressed; that the development will increase hardstand and runoff; that stormwater from the lands are constantly overflowing onto appellant's lands; and that the access road is constantly being damaged and torn up by surface water from the subject lands. The third party

considers that storm water calculations should have been provided to support the application.

- 7.10. During the course of the application a further information request issued and revised proposals with regard to stormwater were submitted which include: piping storm drainage to a pre-existing drain where the onsite gully is connected to a 450mm pipe which runs to the existing stream along the road verge of the L5452-1. It is further proposed to install a cattle grid at the site entrance and run a secondary 225mm pipe to the south west across the landholding to discharge to the existing stream.
- 7.11. The first party response to the grounds of appeal states that: existing runoff is collected at the entrance to the applicants site via an acco channel running to a 450mm pipe, this pipe is maintained by the applicant's family and there has never been any issue with this pipe. The proposal includes installation of a secondary pipe and cattle grid at the entrance discharging to a stream. There is no possibility of runoff to adjacent lands. Hardstanding has been kept to a minimum, gravel will be used. Runoff from the roof will be collected and piped.
- 7.12. I am satisfied that the proposals in relation to surface water are acceptable for the operational phase and subject to a condition in relation to containment of sediment/silt during the construction phase, surface water disposal should not be a reason to refuse permission.
- 7.13. **Wastewater**
- 7.14. The grounds of appeal states that foul effluent is of concern; the depth of the water table, given at 1.5m, cannot be correct; that the report states ground water and surface waters are at risk; and that the extreme vulnerability and poor aquifer are not adequately considered.
- 7.15. The first party response to the grounds of appeal states that the proprietary wastewater system will function adequately, will meet EPA guidelines, and that Donegal County Council's Environmental Health Dept. are satisfied.
- 7.16. The planning report refers to the site assessment, which indicates that ground conditions are suitable for the installation of a proprietary treatment system, and notes the EHO's report which has no objection to the proposal. In my opinion on-site wastewater treatment should not be a reason to refuse permission.

7.17. Traffic Safety

- 7.18. The grounds of appeal states that the private road is narrow and long and without passing bays; that the further information shows a passing bay at appellant's house which is not entitled to be so used. The traffic survey was not conducted per standards in the advisory document TA 22/81 the duration is not proper and results are not calculated correctly; and that the stopping distance is not in accordance with table 24 Section 10.2.12 of the development plan, where the minimum stopping distance is 70m regardless of vehicle speed.
- 7.19. The first party response to the grounds of appeal states that there are no proposals to widen the road, there is a natural pull over point in front of the appellant's property, if required, without any inconvenience to the appellant; that the traffic survey was carried out per TA 22/81; the local road is a low trafficked road; the vision lines are in accordance with table 23 of the development plan, where the minimum derogation that can be sought is 50m; there is 60m clear vision lines to the east and 134 to the west.; the proposed development will not give rise to a traffic hazard; and there was no objection from the Roads Department.
- 7.20. The planning report notes that two vehicles could not pass between the stone piers at the driveway entrance but that immediately inside the piers there is sufficient width (including grass verge) for vehicles to pass, and that the laneway is capable of taking the additional traffic. Stopping sight distances listed in table 24 of the County Development Plan allow deviation from the requirements to be considered upon certification by the applicant's designer to be designed and constructed in accordance with NRA DMRB. This requirement has been met in the current application and the applicant has satisfied the planning authority that the 85th percentile speed is such that a lesser sightline requirement is acceptable.
- 7.21. In my opinion traffic safety should not be a reason to refuse permission.

8.0 Recommendation

- 8.1. In light of the foregoing assessment it is recommended that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

Having regard to the nature of the proposed development, the provision of a single house in the countryside for an applicant complying with the Development Plan policies to accommodate rural housing need, it is considered that subject to the following conditions the site is capable of accommodating an on-site wastewater treatment system, the development would make adequate provision for the disposal of surface water, would not create a traffic hazard or unduly impact on the amenities of the area and would accordingly be in accordance with the proper planning and sustainable development of the area.

Conditions

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12th day of December 2016 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 a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

b) Within two months of the occupation of the proposed dwelling, the

applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

3 a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and arrangements in relation to the ongoing maintenance of the system, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

b) Treated effluent shall be discharged to a raised percolation area which shall be provided in accordance with the requirements of "Wastewater Treatment Manual – Treatment Systems for Single Houses" – Environmental Protection Agency (current edition).

c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 4 Prior to commencement of development, permanent visibility splays of 50m shall be provided in each direction from a point 2.4m back from the road edge at the location of the vehicular entrance onto the public road. Visibility in the vertical plan shall be measured from a driver's eye height of 1.05m and 2m positioned at the setback distance in the direct access to an object height of between 0.26m and 1.05m. Vision splays to be calculated and provided as per Figure 7 of Section 10.2.10 of chapter 10 (Development and Technical Standards), County Donegal Development Plan 2012-2018, as varied.

Reason: In the interest of traffic safety.

- 5 All surface water occurring within the site shall be collected and discharged to the nearby stream in accordance with the details submitted with the application, as amended by the submission of the 12th day of December 2016. During the period of construction the surface water disposal system shall provide for the containment within the site of all sediment/silt arising. The storm water drainage system shall be piped with appropriately sized pipes (i.e. sized in accordance with the results of storm water calculations that have been carried out by a suitably qualified person). Details of the system shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

- 6 The developer shall pay to the planning authority a financial contribution of €2,500 (two thousand five hundred euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in

such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Planning Inspector

3rd May 2017