



An
Bord
Pleanála

Inspector's Report PL05E. 248546

Development	House and septic tank system
Location	Ballykeeran, Kilmacrennan, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	17/50357
Applicant	Peter O'Donnell
Type of Application	Permission
Planning Authority Decision	Grant permission subject to condition
Type of Appeal	Third Party
Appellant	Noel Crossan
Observer	None
Date of Site Inspection	3 rd August 2017
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

1.1. The site is in a rural area c7km north of Letterkenny. It has a stated area of 1.15ha. The main part of the site is setback some 300m from the public road. They are linked by a track that serves existing agricultural buildings on the site, one of which appears to be a former cottage. The site includes the track, the farmyard and adjoining land under pasture. There is another old farmyard on the adjoining land to the west, served by a track that runs parallel to that on the site. Both tracks meet the public road at the same point within a ribbon of housing development.

2.0 Proposed Development

2.1. It is proposed to build a house with a stated floor area of 240m² and a roof ridge height of 8.28m. It would be served by a septic tank and percolation area, with a water supply from a public mains. A detached garage of 67m² is also proposed.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 14 conditions. Condition no. 2 restricted the occupation of the house to the applicant or someone with similar housing needs for 7 years.

3.2. Planning Authority Reports

3.2.1. Planning Reports

A member of the council has confirmed that the applicant has a rural housing need that meets policy RH-P-3. The design of the house is vernacular and it will integrate with the environment. The visibility splays of 70m at the site entrance are acceptable. It would not have a significant effect on the SAC at the Leannan River. A grant of permission was recommended.

3.2.2. Other Technical Reports

The Health Services Executive recited conditions about the septic tank system.

3.3. Third Party Observations

The appellant made an observation that referred to the extension of the access road.

4.0 Planning History

None cited.

5.0 Policy Context

5.1. Guidelines for Planning Authorities on Sustainable Rural Housing, 2005

The site is in an area designated as being under strong urban influence. The guidelines advise that houses in such areas may be provided to meet the housing needs of the local rural community, but that urban generated housing should be directed to zoned and serviced land within settlements.

5.2. The Donegal County Development Plan 2012-2018

Objective RH-O-5 of the plan is to promote high design quality and the successful integration into the landscape of new rural housing.

Policy RH-P-2 is to permit a new rural dwelling which meets a demonstrated rural need 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 various considerations, including whether a proposed dwelling avoids the creation or expansion of a suburban pattern of development.

The plan identifies the area as being a stronger rural area. Policy RH-P-3 is that where an individual has demonstrated that they need a new house in a stronger rural area, it may be favourably considered for those individuals working the rural area; or who have lived there for a substantial period; or have established ties with it for at least 7 years; unless they have had the benefit of a permission within the previous 7 years, subject to compliance with other relevant policies of this plan, including RH-P-2.

5.3. **Natural Heritage Designations**

The Special Area of Conservation (SAC) at the Leannan River lies c1.4km to the north-west of the appeal site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The appellant lives on the neighbouring house to the west. Historically there were two separate access roads along the laneway. The full width of the lane has been levelled with no buffer for the appellant's property. Material has been stockpiled on the western side of the lane.
- The unauthorised widening of the road has had an unacceptable impact on private amenity.
- The proposed house is higher than those in the vicinity.
- The access requires visibility splays of 160m in each direction along the public road.

6.2. **Applicant Response**

- The western part of the lane is not in the application site and works were not carried out there by the applicant.
- The design of the house was considered acceptable by the planning authority.
- Adequate sight distances would be available at the access from public road.

6.3. **Planning Authority Response**

None

7.0 **Assessment**

- 7.1. The consideration of applications for planning permission should not be used to replicate or circumvent the enforcement procedures set out in part 8 of the planning

act. The boundary between the track to the site and that parallel one along the side of the appellant's property was defined by a post and wire fence at the time of inspection and there was no obstruction of either. The grounds of appeal that relate to these matters are not pertinent to the present case, therefore.

- 7.2. National and local rural housing policies restrict the development of houses in this part of the countryside to those that meet certain categories of housing need. The applicant did not submit detailed information in this regard. A letter from a member of the planning authority stated that the house would comply with the applicable development plan policy. This position was not subsequently challenged by the planning authority or the appellant and it would constitute a new issue in the course of the appeal. However the board may wish to consider if commendation by an individual elected representative is adequate to demonstrate compliance with the provisions of the development plan and the guidelines issued by the minister.
- 7.3. The sightlines available at the access to the public road are adequate to cater for the traffic that would be generated by the proposed development. It would not, therefore, give rise to traffic hazard or the obstruction of road users.
- 7.4. The proposed house would be substantial and would be located on relatively elevated ground. However the site is not prominent or particularly sensitive. The proposed house would be set well back from the public road and it would be situated beside an historic cluster of buildings. The detailed design of the house is acceptable. In these circumstances the proposed house would not detract from the rural character or the visual amenity of the area.
- 7.5. The site suitability assessment report submitted with the application indicated that the t-value of the soil on the site was 32 and that there was a depth of more than 2.1m of unsaturated soil. These indicate that the site is suitable for the treatment and disposal of domestic foul effluent to groundwater by means of a septic tank and percolation area. These indications are consistent with the observations of ground conditions made at the time of inspection and are accepted. The proposed development would not, therefore, be prejudicial to public health and would not be likely to cause a deterioration in the quality of waters.

7.6. Screening for appropriate assessment

- 7.6.1. The only conceivable impact that the proposed development could have on any Natura 2000 site is upon the quality of waters in the SAC at the Leannan River site code 002176 which is 1.4km northwest and downstream of the appeal site. The conservation objectives for the SAC are to maintain or restore the favourable conservation status of the following habitats –
- 3110 Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*)
- 3130 Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or *Isoeto-Nanojuncetea*,
- and the following species –
- 1029 Freshwater Pearl Mussel *Margaritifera margaritifera*
- 1106 Salmon *Salmo salar*
- 1355 Otter *Lutra lutra*
- 7.6.2. The site suitability assessment report submitted with the application provided information that was sufficient to demonstrate that the ground there was suitable for the disposal to groundwater of effluent treated by a septic tank and percolation area without giving rise to a deterioration in the quality of water. A suitable design and layout for such and percolation area was also submitted.
- 7.6.3. It is reasonable to conclude that on the basis of the information on the file, which is adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the SAC at Leannan River, or any other Natura 2000 site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Donegal County Development Plan 2012-2018 and the siting and design of the proposed dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would not be likely to have a significant effect on any Natura 2000 site. It would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the. 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 conditions.

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. Prior to commencement of development, 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 to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. Prior to commencement of development details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of orderly development and the visual amenities of the area.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

5. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Wastewater Treatment Manual – Treatment Systems for Single Houses" – Environmental Protection Agency (current edition).

(b) Treated effluent from the septic tank system shall be discharged to a raised percolation area. The invert level of the percolation pipes, shall be located at 0.6 metres below existing ground level. The percolation area shall be installed in accordance with Table 7.3 of the EPA Code of Practice Wastewater Treatment and Disposal Systems serving Single Houses (p.e. ≤ 10) issued by the EPA in 2009. The maximum length of percolation trench shall be 72 metres and no individual percolation trench length shall be more than 18 metres.

(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 raised percolation area is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7. The site shall be landscaped in accordance with a scheme that shall be submitted and agreed in writing with the planning authority prior to the commencement of development. All planting shall use species native to the area and shall be carried out by the end of the first planting season following occupation of the house. Any plants that die or are removed within the following five years shall be replaced.

Reason: In the interests of visual amenity

8. The developer shall pay to the planning authority a financial contribution 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, as amended. The contribution shall be paid prior to 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Stephen J. O'Sullivan
Planning Inspector

31st August 2017