



An  
Bord  
Pleanála

## Inspector's Report 05E.248973.

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<b>Development</b>	Demolition of a two storey structure and construction of a new primary care centre.
<b>Location</b>	Newtowncunningham, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council.
<b>Planning Authority Reg. Ref.</b>	17/50717.
<b>Applicant(s)</b>	Health Service Executive.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Health Service Executive.
<b>Observer(s)</b>	An Taisce.
<b>Date of Site Inspection</b>	02 <sup>nd</sup> of November 2017.
<b>Inspector</b>	Karen Hamilton.

## 1.0 Site Location and Description

1.1. The subject site contains a large two storey derelict building “The Castle” set back from the main road within the village of Newtowncunningham, off the N13 which links Derry and Letterkenny, Co Donegal. The building is located to the rear of the site which slopes upwards away from the main road and there are two access into the site, one appears agricultural. There is an old 2m high wall along the front of the side. The site is surrounded by residential developments, all at a lower level than building on the site and the site is bound to the rear with timber fencing. There are a number of mature trees on the site.

## 2.0 Proposed Development

2.1. The proposed development may be summarised as follows:

- demolition of an existing building (711m<sup>2</sup>)
- the construction of a new primary care centre (963m<sup>2</sup>)
- Construction of new vehicular access into the site,
- New palisade boundary fencing,
- Connection to public water and sewer and other associated works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to refuse permission for two reasons summarised below:

1. The proposed development requires the demolition of a former country house which is listed in the National Inventory of Architectural Heritage (Ref. 40824008). Objective BH-0-1 of the development plan refers to the revitalisation and reuse of built heritage throughout the Country and Policy BH-P-3 requires alterations which alter the appearance of historic buildings do not have a detrimental impact on the character or appearance of the building. The excessive loss of fabric of the building is not justified therefore contrary to the above objective and policy.

2. Policy T-P-15 requires compliance with the visibility splays listed in Table 23 of the development plan and the planning authority is not satisfied the required standards can be achieved.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the area planner reflects the decision to refuse permission and refers to

- the polices of the development plan to protect historical buildings,
- the failure of the submitted Conservation Report to provide justification for the demolition of the building,
- preplanning with the Conservation officer who advised the existing structure should be retained based on its social value.

#### **3.2.2. Other Technical Reports**

Roads and Transport Section- No objection to proposal (note sightlines local road 70-90x 2.4m.

Roads Design Section- Further information request requiring a 3m setback from the road in accordance with Table 23 of the development plan.

Fire Service- No objection to proposal.

### **3.3. Prescribed Bodies**

An Taisce- Concern is raised on the demolition of an early 18<sup>th</sup> Century house known as “The Castle” and is deemed inadequate.

### **3.4. Third Party Observations**

None received.

## **4.0 Planning History**

No planning history on the site.

## 5.0 Policy Context

- 5.1. Design Manual for Urban Roads and Streets, 2013 (DMURS)
- 5.2. Architectural Heritage Guidelines for Planning Authorities, 2004. Development guidelines for Protected Structures and Areas of Architectural Conservation.
- 5.3. **Donegal County Development Plan 2012-2018**

The site is located within the village of Newtowncunningham which is a Tier 3 settlement in the development plan and is not zoned.

### **CCG-P-2 Support for community facilities**

It is a policy of the Council that as far as practicable and subject to the availability of necessary infrastructure, all social infrastructure and local services be located at central village/neighbourhood locations within settlements, which will facilitate pedestrian access, social inclusion, growth in community vibrancy, safety and accessibility for the greatest number of people.

The site is not listed as a protected structure in the development plan although is an 18<sup>th</sup> century building therefore the following policies apply:

### **Section 6.2 Built Heritage**

#### **Objective BH-O-2**

To facilitate appropriate revitalisation and reuse of the built heritage throughout the county including vernacular buildings.

#### **BH-P-1**

It is a Policy of the Council to conserve and protect all structures (or parts of structures) and sites contained in the Record of Protected Structures that are of special architectural, historic, archaeological, artistic, cultural, scientific, social or technical interest.

#### **BH-P-3**

It is a policy of the Council to ensure, where appropriate, measures to extend, modify or materially alter the fabric of vernacular and/ or historic buildings are

sensitive to traditional construction methods and materials and do not have a detrimental impact on the character or appearance of a structure.

#### BH-P-5

It is a policy of the Council to ensure the repair, reuse and appropriate refurbishment of vernacular/historic buildings, which make a positive contribution to the built heritage of the area including those as referred to on any National Inventory of Architectural Heritage listing.

#### **Section 10.2.10 Vision lines**

Table 23: Speed Limit 50 kph set back (x) 3m\*-9m\*\* (y) distance 70m

Table 25: Carparking Standards for Health centres is 3 per consulting room.

#### **5.4. Natural Heritage Designations**

The site is located 0.4km south from the Lough Swilly SPA.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

The grounds of appeal have been submitted by an agent on behalf of the applicant and is summarised as follows:

##### Built Heritage

- The conservation report submitted with the application noted the poor state of disrepair and the internally there were no original features remaining.
- The conservation report included Option 1 and noted the reasons why this option was not appropriate.
- Policy BH-P-3 of the development plan requires the retention of historical buildings where appropriate.
- The development of the current building cannot comply with the building regulations standards. (SKO8 of option 1 and SKO9 &SK10 of Option4).
- Much of the site has been sold off in years and developed for housing therefore altering the setting of the house.

- The building described in the NIAH relies mostly on the internal description from Alister Rowans book, Buildings of North West Ulster. The building was not deemed worthy of listing in the Record of Protected structures.
- The loss of detail is noted in the conservation report and does not meet the criteria for NIAH listing based on the interior and exterior.

#### Structural Survey

- An engineer's report refers to the poor condition of the existing building, thermal upgrading is required and repointing.
- Excavation is required to increase the working height of the basement which requires considerable underpinning. Damp proofing may need to be included.

#### Visibility Splays.

- An engineer's report refers to the provision of a setback of 2.6m and sightlines of 70m.
- The visibility splays exceed the DMURS standards (2.1m) for roads in built up areas with 50kph speed limits.
- A full Road Safety Audit was not undertaken due to the size of the proposal although the scheme was reviewed by a qualified Road Safety Auditor.
- Should a 3m set-back be required, this can be achieved by minor amendments to the gate entrance and front walls.

## 6.2. Planning Authority Response

A response was received by the planning authority which may be summarised below:

- The building and grounds are in the NIAH listing have a regional rating of architectural and historical rating.
- The proposed building provides a significant contribution to the built heritage of Newtowncunningham and Policy BH-O-1 and BH-O-2.
- The applicant was advised at pre-planning that any submitted proposal should include the retention of the building

- The submitted Conservation report failed to provide any definitive conclusions with regard to the building or a robust argument in favour of demolition of the structure.

### 6.3. Observations

An observation was received from An Taisce who support the decision to refuse by the planning authority and the issues raised may be summarised as follows:

- The location is appropriate for a primary health care centre.
- The building has been in the HSE/ Health Board for decades and therefore the neglected condition is entirely their fault.
- The building could be transformed by restoration of timber sash windows and the loss of Georgian features in the interior does not make the conversion any easier.
- The nature of the landholding is not explained and the red line runs undesirably close to the 18<sup>th</sup> Century building which limits alternative proposals to refurbishing and extending the existing building.
- Drawing No SKO8 of proposed option 1 is inadequate in consideration of alternatives.

## 7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of development
- Built Heritage
- Access
- Impact on residential amenity
- Other Matters
- Appropriate Assessment

### Principle of Development

- 7.2. The proposed development includes the demolition of an 18<sup>th</sup> century house (711m<sup>2</sup>) and replacement with a new primary health care building (963m<sup>2</sup>) on a site located within a Tier 3 settlement, Newtowncunningham. Policy CCG-P-2 of the development plan directs the provision of new social services to existing village/ communities subject to the provision of all necessary infrastructure. The reason for refusal relates to the impact of the demolition on the built environment and the substandard access. Based on the location of the site within the village I have no objection to the principle of the use site as a primary health care centre, subject to complying with other planning requirements as addressed in the following sections.

### **Built Heritage**

- 7.3. The proposal includes the demolition of a large derelict two storey building included in the National Inventory of Architectural Heritage (NIAH) Reg No 40824008, listed as “The Castle”. Section 2.4 of the national guidelines, *Architectural Heritage Guidelines for Planning Authorities*, refers to the use of the information in the NIAH by the planning authority, in particular inclusion in the development plans. The building is not listed on the Record of Protected Structures in the County Development Plan. The first reason for refusal refers to the failure of the proposal to justify the demolition of “The Castle” and notes to the significant contribution of the building to the built heritage within the settlement of Newtowncunningham and the guidance in the development plan, Objective BH-0-1 and Policy BH-P-5 which request the appropriate revitalisation and refurbishment of vernacular/ historical buildings and which make a positive contribution to the built heritage including those listed in the NIAH. The grounds of appeal argue the NIAH listing is based on a desktop exercise from Alistar Rowans book in 1979 on the interior period details which are no longer present in the building. An observation from An Taisce notes the ownership of the building by the applicant for decades who allowed the neglect of the building. In addition, An Taisce request that the refusal is upheld and the building restored.
- 7.4. The NIAH listing includes a picture of the building in a less derelict state than current, with intact windows and refers to the building as being one of the earliest surviving dwellings in Newtowncunningham. In addition, the report states:



*“Its early date is not readily discernible to the exterior although a number of features to the interior (not viewed, description from Rowan in 1979), such as corner fireplaces, plaster cornices and wainscot panelling, of early eighteenth-century appearance, survived until recent years and possibly still survive”*

The interior survey, submitted with the Conservation Report, refers to the loss of any features of interest in the interior and illustrates fire damage which has occurred and the use of inappropriate materials for replacement.

- 7.5. Two options for the reuse and inclusion of the building as part of the overall development were included with the grounds of appeal with option 1 extending the existing building to the east and option 2 extending to the north. The structural survey included in the Conservation Report, and supported by an engineer's report in the grounds of appeal, refer to the poor condition of the building, the extensive works required to upgrade for building regulations and energy standards, including an increase in the depth of the basement, damp proofing, steelworks and replacement of floor plates, and I consider the survey information reasonable.
- 7.6. Based on the information submitted in the structural survey, the conservation report and the description in the NIAH survey, I consider those features of interest, namely the interior, have in the most part been removed and the justification to retain the building solely for its exterior is not considered reasonable. No evidence is submitted from either An Taisce or the Council Conservation Officer on the special architectural, historic, archaeological, artistic, cultural, scientific, social or technical features of interest. In addition, many other of the original attributable features of the building including the demesne setting have been removed by the development of surrounding residential estates along the south and west, which I consider provides additional justification for the demolition and replacement of this derelict building.

### **Access**

- 7.7. The site is accessed onto a local road (L-205-1) and includes the retention of the existing historic entrance and new vehicle and pedestrian. The second reason for refusal refers to the failure of the proposed development to provide safe visibility splays in each direction as detailed in Table 23 (speed limit 50kph (x) 3m-9m (y) distance 70m) which is supported by Policy T-P-15 of the development plan. The grounds of appeal argue that DMURS should be applicable (set back of 2.4m) to the

proposed development as it is located within the built up village of Newtowncunningham.

- 7.8. The report of the Roads and Traffic department had no objection to the entrance and references sightlines of 79-90 with a setback of 2.4m for local roads, for development up to 6 dwellings. The report of the Roads Design section referenced Table 23 of the development plan and requested further information on a revised site layout indicating a setback of 3m.
- 7.9. The Design Manual for Urban Roads and Streets (DMURS), provides guidance in relation to the design of the urban street network and Section 4.4.5 of the manual refers to the visibility splay for priority junction's urban area, with stop signs a setback of 2.4m is considered a maximum. I note the location of the junction approx. 2km from a main junction onto a National Road, where the speed limit is 100kph and I do not consider the reduced set back of 2.4m at this location is comparable to the urban junction referred in DMURS. Based on the location of the site in close vicinity to a national road junction and the village setting I consider a minimum set back of 3m as per Table 23 of the development plan is appropriate. The submission from the engineers in the grounds of appeal states that a distance of 3m is achievable, which I have assessed and can concur and I consider it reasonable to include this setback as a condition.

### **Impact on residential amenity**

- 7.10. The subject site is located to the north and east of a residential development and to the west of an individual dwelling. The proposed primary care building is located to the rear of the site, at the highest point (FFL 8.4m). The proposed building is split level with the two storey element to the rear, south, and a single storey annex along the west, north. The overall design of the building is contemporary in nature with a mix of coloured render and untreated cedar sheeting along the wall and zinc cladding to the entrance lobby.
- 7.11. Overlooking: The proposed building is located 16m from the closest dwelling to the west of the site and approx. 1km from the closest dwelling to the south, and is separated by the open space designated for this residential development (Castle Park). The first floor elevation, along the west facing onto Castle Park includes one window, staff kitchen. This elevation faces onto the side of the closest dwelling.

Having regard to the distance from the adjoining dwellings and overall design of the building, I do not consider there will be any overlooking onto any adjoining properties.

- 7.12. Overshadowing: The proposed building is 10m in height and located 16m from the closest dwelling to the west. Based on the location of the proposed building and the dwellings in the immediate vicinity I do not consider there will be any overshadowing.
- 7.13. Landscaping: There is a significant number of mature trees on the site. The site plan illustrates the retention of some trees along the south, east and west of the site and the hedgerow along the east. A new beech hedge is proposed along the south of the site. I note the bat survey classifies a number of the existing mature trees as A-value for the purposes of supporting bat roosting and I consider it reasonable to include a condition requiring a full survey of trees and replacement with an appropriate number and species.

#### **Other Matters**

- 7.14. Bats: A Bat Survey was submitted as part of the proposed development and recorded the presence of both the common pipistrelle and the soprano pipistrelle from the building. In addition, the survey noted three mature trees on the site which may be classed as A-value for use by bats. The report provided mitigation measures for the protection of the bats for two scenarios, reuse of the building and demolition and replacement, where the later scenario requires the use of a bat box scheme prior to the commencement of development, and works would require a NPWS derogation Licence. Other mitigation measures listed included the use of a bat specialist to carefully remove tiles and timber fascia boards prior to demolition to ensure the relocation of any bats into the boxes. A planting scheme for any mature trees to be removed should be required and for the removal of any A-value trees a woodcrete bat box is required. I consider it reasonable to condition the inclusion of these mitigation measures.

#### **Appropriate Assessment**

- 7.15. The subject site is located approx. 0.4km south of the Lough Swilly SPA. The proposed development includes connection to the public water and foul drainage network. A number of mature trees are to be retained and a landscaping scheme includes additional planting.

7.16. Therefore, having regard to the nature and scale of the proposed development, the conservation objectives and distance from the European Sites, it is reasonable to conclude that on the basis of the information on file, which I consider 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 Lough Swilly SPA, or any other European site, in view of the sites conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

## **8.0 Recommendation**

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

## **9.0 Reasons and Considerations**

Having regard to the location of the site within a Tier 3 settlement, the nature and scale of the proposed development and the polices of the current development plan it is considered that subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenity of the area, have a significant negative impact on the architectural heritage of the village or endanger public safety by reason of traffic hazard. The proposed development 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 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 out in accordance with the agreed

particulars.

**Reason:** In the interest of clarity

2. Detailed measures listed in Section 4.1.1 and 4.1.2 in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of wildlife protection

3. The vehicle entrance to the proposed centre shall be set back to not less than 3m from the edge of the public road. The proposed front boundary shall consist of natural local stone. A revised site layout plan indicating the set back and the exact height and location of any wall and gate shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety and visual amenity

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) Contoured drawings to scale of not less than [1:500] showing –

- (i) a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal

(ii) a continuous hedge of indigenous species (e.g. holly, hawthorn, beech or field maple) planted for the full length of the boundaries,

(iii) the establishment of predominantly native and naturalised woodland on areas incorporating species, variety, size, type, number and location of all trees and shrubs

(iv) replanting scheme in accordance with section 4.1.2 of the bat survey,

(v) any hard landscaping works, including car parking layout, enclosed areas, lighting and outdoor seating, specifying surfacing materials

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established

(d) A timescale for implementation including details of phasing, which shall provide for the planting to be completed before the building is first made available for occupation.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity and the protection of wildlife.

5. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the [residential] amenities of property in the vicinity

7. All service cables associated with the proposed development, such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity

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

**Reason:** In the interest of public health

9. 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.

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Karen Hamilton  
Planning Inspector

11<sup>th</sup> of December 2017