



An
Bord
Pleanála

Inspector's Report 300173-17

Development	Two storey dwelling with wastewater treatment and associated site works
Location	Ballymangan Upper and Lower and Clonbrush, Buncrana, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	17/51172
Applicant	Liam and Jenna Kelly
Type of Application	Permission
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party v Refusal
Appellant	Liam and Jenna Kelly
Date of Site Inspection	22 nd March 2018
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The subject site of 0.97 hectares is in an elevated area northeast of Buncrana town. It is largely rural in character with open fields and scattered housing with development concentrated on the town side of the road. There is a large haulage business to the south of the site on more elevated ground within the same holding and some houses on lower ground to the north on the same side of the road. Development on the other side in this vicinity is limited due to extensive rock outcropping and steep incline. There is one house under construction on the opposite side of the road.
- 1.2. The site is irregular in shape and wraps partly around the haulage site. As delineated on the submitted contoured drawings, it extends to about 160m in depth from the road and is up to about 115m in width at its widest whereas road frontage is 50m. The site rises from about 73m to 86mOD – rising mainly to the east and towards the road. The road frontage which includes a farm gate, rises from 79.8m to 84.8m OD. The surrounding ground is quite varied in level and appears to relate in part to its previous quarry activities in the area.
- 1.3. The site terrain is overgrown and uneven with a dense coverage of reeds on higher ground and bracken on the more lower ground. The ground in the vicinity features extensive rock outcropping and vegetation indicative of soil with poor drainage characteristics.
- 1.4. The adjacent haulage business is located on an extensive yard which includes a dwelling house and out buildings and is fenced off from the road and surrounding land.
- 1.5. The road serving the site is a vertically and horizontally poorly aligned tertiary route with limited development. It connects to the town (3.5km away) via the R238 to the north – a suburban road - and to the south by a network of rural roads.

2.0 Proposed Development

- 2.1. Permission is sought for a two storey dwelling of 409sq.m. It is a seven bay two storey dwelling in a traditional styling with symmetrically arranged and vertically proportioned window openings. It is proposed to site the dwelling about 140m from

the road to the rear of the haulage site at a level of 82mOD. No excavation or cut/fill is stated to be required. The following dimensions form part of the proposal:

- The footprint is 191 sq.m. and first floor is 160sq.m. Stairs are proposed to an attic level with a 58 sq. floored area and three roof lights.
- Width 22.5m
- Height: roof level 91.4mOD
- FFL 82.5m – Drawings show how neighbouring dwelling has height of 99mOD and shed 99.6mOD
- It is proposed to service the site by means of a WWTP and a connection to the public mains.

2.2. The application is accompanied by

- a Site Suitability Assessment Report in which the T test indicates site is not suitable for a septic tank system but may be suitable for a secondary treatment system with a polishing filter.
- Photomontages.
- Letter of consent for group water scheme.
- Traffic Speed assessment.
- Consent for road alignment for sightlines.

2.3. A cover letter explains that the applicant is a son of the owner of the adjacent site which includes a dwelling and haulage business. It is stated that he has taken over the business and needs to live beside it. It is explained that a previous application was withdrawn due to concerns regarding visual amenity. These issues are addressed by way of photomontages which demonstrate that the proposed development can be absorbed into the landscape. The application is considered to comply with public health and traffic safety requirements in addition to complying with housing policy.

3.0 Planning Authority Decision

3.1. The Planning Authority issued a notification of intention to **REFUSE** permission for the following reason which is based on **visual impact**..:

- The subject site is in an area zoned as 'Agricultural/rural' in the Buncrana and Environs Development Plan 2014-2020. It is an objective of the said plan within areas zoned 'Ag/Rural' to provide for a spatial development pattern that is sustainable and related in form and scale to the level of existing physical and social infrastructure in the area and that can be integrated and absorbed into the landscape. It is considered that the proposed development by reason of (i) its siting in a prominent and elevated position on a steeply sloping gradient within the said agricultural/rural zoned lands; ii) its location beyond the established pattern of development and detachment from any mitigating natural features; and (iii) its two storey character and associated mass, height and scale would result in a discordant and obtrusive feature imposed on the landscape which would be out of character with the established single storey and storey and half dwellings adjoining the site and would thereby by itself and by precedent lead to the encroachment of a disorderly form of physical development into elevated lands in a manner seriously injurious to the visual amenities of the host environment. Therefore, the proposed development is not appropriate or orderly in the context of the zoning of the area and to permit same would provide for an unsustainable spatial development pattern that cannot be integrated and absorbed into the receiving landscape. Accordingly, to permit the proposed development would materially contravene the Development Plan.

3.2. Planning report

3.2.1. The applicant is considered to comply with the housing need criteria. Sightlines are considered adequate. However, there are issues with respect to visual impact having regard to the elevated and exposed nature of the site and the scale of the development. The submitted photomontages are questionable. Further information was accordingly requested which sought the erection of 2 no. laths for further visual appraisal.

3.2.2. The applicant responded to the further information request on 21st September to the satisfaction of the planning authority. Laths were erected on site and these were assessed on 27th and photomontages were deemed reasonably accurate. However, the proposed dwelling was considered to remain excessive for the context.

3.3. Other technical reports

3.3.1. HSE: Environmental Health Officer: No objection subject to 9 no. conditions.

3.3.2. Roads Department: No objection subject to conditions.

4.0 History

4.1. There is no planning history specified in the planning authority's report however the applicant refers to the history in the vicinity and on the site.

- Planning authority ref:15/51596 refers to a refusal of permission for a single storey dwelling on a site to the north of the subject site for reasons relating to housing need, layout and drainage/proliferation of individual wastewater treatment systems. The grounds of appeal refer to a subsequent application without any apparent discussion regarding all issues.
- Planning authority ref 17/50999 refers to a subsequent application and grant of permission. The grounds of appeal submit that the previously raised issues of concern issues were not apparently addressed.
- Planning authority ref 16/51329 refers an application for a dwelling on the subject landholding but was withdrawn following concerns about visual impact. There were also concerns relating to wastewater treatment and overall planning. The grounds of appeal refer to a meeting with the planning authority and its preference for a less visually obtrusive location (more north) but the applicant points out that this this would require earthworks and would not have the benefit of the backdrop of sheds. The planning authority however disregard this as they are unauthorised.

5.0 Policy Context

5.1. Buncrana Town and Environs Development Plan 2014-2020

5.1.1. The subject site is located within the Buncrana Town and Environs area and is part of an extensive landbank of agricultural/Rural zoned land. Relevant policies relating to the strategic development of the town and its environs include:

- CS-P-1: It is the policy of the Council to guide development in a sequential manner, outwards from the Town Centre, to maximise the utility of existing and future infrastructural provision, promote the achievement of sustainability, avoid 'leap-frogging' to more remote areas and to make better use of underutilised land

H-P-29: It is the policy of the Council to facilitate an appropriate provision of one-off housing in 'Agricultural/Rural' areas where the applicant can demonstrate that they need a new house at this location and can provide evidence that they, or their parents, have resided in those areas for a period of at least 7 years. All proposals shall be subject to all relevant material considerations, relevant policies of the Buncrana & Environs Development Plan 2014-2018, other Regional and National guidance and relevant Environmental Designations.

5.2. Donegal Development Plan 2012-2018

5.2.1. I have also read the relevant provisions of the county development plan and note policies RH-P-1 and RH-P-2 which provide guidance for rural housing particularly in relation to appropriate and quality design, integration into the landscape, suburbanisation and erosion of the rural character of the area.

5.2.2. 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;

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.

6.0 Grounds of Appeal

- 6.1. The appellant makes the case generally for a house and highlights that the principle of a dwelling is not at issue with the planning authority. The house need is explained by reference to the following factors:
 - Fourth generation family member seeking to build a house on family farm which has a haulage business established after the building of his father's house in the 1970s.
 - Applicant is taking over haulage business which is vulnerable to thieves
 - The house provides for ground floor accommodation for parents
- 6.2. The reason for refusal on visual grounds is disputed:
 - Visually the proposed house should be viewed and appraised in relation to the haulage business complex. While the elevated nature is acknowledged the appellant disagrees with assessment by the planning authority having regard to the shed height in the haulage yard ridge height 2m below floor level.

- The proposed development provides for a spatial development pattern that relates in form and scale to the existing development and can be integrated into the landscape.
- It is also pointed out that viewpoint from which the site is visible is significant distance way
- Mix of materials including stone and render.

6.3. The alternative location in the site as suggested by the planning authority is of no benefit: siting to the north would be near development that is the consequence of poor planning as described by the planning authority. The planning authority has failed to acknowledge the natural plateau and absence of need for extensive excavation the preferred location may also result in overlooking of the adjacent dwellings. The uncharacteristic design should be more appropriately judged against the haulage premises.

7.0 Planning Authority Response

- The planning authority restates the objective for the agricultural/rural zoned lands in accordance with the development plan.
- It is noted that the outbuildings and yard area from which the haulage business is operated do not have the benefit of planning permission. The predominant nature of the building pattern is of single storey houses on lower ground.
- It is considered that a dwelling of the scale mass and height proposed on such a prominent, exposed, elevated and steep sloping hillside represents a discordant and obtrusive feature on this landscape and cannot be integrated and absorbed into the landscape.
- It is also significantly removed from the established pattern of development to the east, southeast and north and the 2 storey dwelling is also uncharacteristic of dwellings in the area.

- There is a lack of mitigating natural physical features on the site which would facilitate integration

The planning authority remains of the opinion that the proposed development would constitute a detrimental physical intrusion on the receiving landscape and would set a precedent for other disorderly development that would be seriously injurious to the visual amenities of the area.

8.0 **Assessment**

8.1. **Principle of Development**

- 8.1.1. The proposal relates to an application for a dwelling house on a family farm holding in lands zoned as agricultural/rural use in the Buncrana town and environs development plan. The dwelling has been refused permission on grounds relating primarily to the siting and visual impact. However, while the planning authority is broadly satisfied that the applicant has a housing need I would question its compatibility with the development plan in respect of its strategic land use objectives.
- 8.1.2. The land use objective for the lands is for agricultural/rural use whereas the proposed dwelling is to support a non-agricultural land use. The planning authority confirms that the shed and yard associated with the haulage business do not have the benefit of planning permission. Accordingly, an additional dwelling for the purposes of running the business would consolidate a non-conforming urban type of activity in a rural area that is located at the outer most location in the environs of the town. The holding is only 4 hectares and the development of almost a hectare of this holding in addition to the extensive haulage yard would almost entirely remove the agricultural use. This in my opinion would compete against rather than enhance the use for which land is intended to be used in this area. I also note that there's a supply of residential phase 1 zoned land along the Cockrill Road to the west of the site. Accordingly, the context of the strategic development of the town to permit urban generated housing at this location would constitute a leapfrogging of development of the town mitigating its orderly development as advocated in policy - P1 in line with national planning framework policy.

- 8.1.3. While the issue of housing need has been raised in the planning authority report and submissions, the grounds of refusal relate to more specific siting and design issues and the grounds of appeal are in direct response to this reason for refusal, accordingly the principle of a dwelling may be considered to constitute a new issue and the Board may wish to seek further comments to consider this matter more fully.
- 8.1.4. Notwithstanding the strategic issues regarding the principle of one-off housing at this location, such permission is, in the context of HP 29, predicated on meeting site suitability criteria. The main issue being, in this case, visual impact.

8.2. **Visual Impact**

- 8.2.1. The proposed dwelling is considered unacceptable by the planning authority by virtue of its mass, height and scale and siting having regard to the receiving environment.
- 8.2.2. The proposed dwelling is quite substantial at 409 sq.m, spanning 22m with an overall height of 9m. The applicant makes the case that the siting below the height of existing structures associated with the haulage business assimilates it into the landscape and further argues that, while elevated, the visual prominence is mitigated by distance.
- 8.2.3. While I accept that there is a certain level of assimilation afforded by the dominance of the shed and skyline rising above, I also accept that the house is of a particularly large scale and would, when taken in conjunction with the existing haulage business have a considerable suburbanising effect in the otherwise rural area. The effect is further accentuated by the elevated and exposed nature of the terrain. I consider it a reasonable point that it is unreasonable to rely on unauthorised development as a benchmark for visual appraisal and to justify the further consolidation of a suburban form on this basis.
- 8.2.4. There is also the added suburbanising impact of a long driveway of about 140m and effective sterilising of agricultural land by the extent of domestic use proposed on what is already a small residual farm holding. The original intrinsic rural character would in effect be substantially removed from the landholding. This would constitute a significant altering of landscape character contrary to the guidance for housing in the development plan.

8.2.5. For the above reasons I therefore concur with the planning authority in its visual appraisal and consider that the proposed development would be unacceptable in terms of its visual impact on the local and wider landscape in an elevated and rural setting.

8.3. **Appropriate Assessment**

The site is not within a Natura 2000 site. The nearest and most relevant site is Lough Swilly SAC (site code 002287) about 3km west and which includes the following features of interest:

- Estuaries [1130]
- Coastal lagoons [1150]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]
- Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
- *Lutra lutra* (Otter) [1355]

8.3.1. The potential pathway between the development site and the receiving environment would be via surface and or ground water because of both site works and ongoing drainage of the site via a waste water treatment plant. The EHO has raised no objection to this and the proposal incorporates a secondary treatment process and polishing filter as it is not suitable for a conventional septic tank. There are no water courses on site. However, there is an open drain about 80m south of the site and down gradient which feeds into River Crana which flows into Lough Swilly, however, having regard to the nature and scale of the proposed development and the nature of the receiving environment and proximity to the nearest European site, no appropriate assessment issues in my opinion arise and it is considered that the proposed development would not be likely to have a significant effect individually, on a European site.

8.3.2. I do however note that there is no planning permission for all the structures in the adjacent haulage premises which includes extensive hard-surfacing and extensive storage of heavy vehicles and related equipment. It is not clear if the drainage and

pollution control measures are a source of any contamination that impact on the receiving waters feeding into the nearby Lough Swilly via ground water or surface water course draining to the River Crana. Accordingly, it cannot be concluded with certainty if the proposed development cumulatively would not be likely to have a significant effect on a European site.

- 8.3.3. While the Board may wish to seek further information in this regard and/or advance to a Stage two appropriate assessment I consider that this is not entirely necessary in view of the substantive reason for refusal.

9.0 Recommendation

- 9.1. In accordance with the foregoing assessment, I recommend that planning permission be refused for the following reasons and considerations.

1. It is considered that the proposed development because of its scale, height and massing, site layout and siting on an elevated and exposed site, by itself and by the precedent it would set in the context of surrounding development would contribute to the excessive suburbanisation of the rural environs of Buncrana Town, would be a visually discordance feature in the rural landscape and would accordingly seriously injure the visual amenities of the area and detract from its the rural character. The proposed development is not considered therefore to constitute appropriate housing and is accordingly contrary to the housing policy H-P-29 and would therefore be contrary to the proper planning and sustainable development of the area.

Suzanne Kehely

Senior Planning Inspector

29th May 2018