



An
Bord
Pleanála

Inspector's Report ABP-300947-18

Development	Alterations & Extensions to dilapidated dwelling; installation of wastewater treatment system
Location	Drumreen, Carrigart, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	17/51813
Applicant(s)	Patrick Joseph Black
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Charles Doogan
Observer(s)	None
Date of Site Inspection	18 th June 2018
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located in a rural area in northeast Donegal, approx. 2km south of the coastal village of Carrigart. The site is accessed from a local road, L-5332-1. The site is of scenic rural value, being elevated, with views west toward Sheephaven Bay. There are a significant number of rural dwellings in the area.
- 1.2. The site, which has a stated area of 1.05ha, comprises a gated agricultural entrance with overgrown access path (approx. 4m in width), comprising a gravel/stone finish in parts, grassed over, and with a significant presence of rushes. The access path slopes down in a winding manner to a flat section of the lands (significantly below the level of the local road). On the flat section of land there is an existing dilapidated traditional stone building and a small shed. The northern part of the vernacular stone building appears to have been (and is) used by animals and the southern section was for human habitation. The rear of the building is set in against the slope of the land behind it, with a shed positioned near the western edge of this flat section of land, where there is a hedgerow and wall, beyond which the land levels drop significantly again. The remainder of the lands are under grass and are in agricultural use. A significant number of rushes and gorse were observed on the land. There is a drainage ditch along the northern boundary of the site and approx. 123m west of the site is a stream which connects to Sheephaven Bay SAC, approx. 2.1km to the north and a lake, approx. 2km to the south.
- 1.3. The site at the entrance from the local road is bounded to the south by a detached dormer bungalow and garage. Approx. 96m west of the dilapidated building, positioned at a lower level, is a detached dwelling, visible from the site and accessed via a separate local road.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Alterations and extension to existing dilapidated dwelling.
 - Installation of wastewater treatment system.
 - Demolition of existing small shed, which is 16.5sqm in area.

- 2.2. The site area is stated to be 1.05 hectares. The gross floor area of the existing building is 77.5 sqm and the proposed works is 119.7sqm.
- 2.3. The application is accompanied by a 'Site Suitability Assessment for an on-site Wastewater Treatment System'.

3.0 **Planning Authority Decision**

3.1. **Decision**

GRANTED, subject to 14 conditions, including the following:

C2: Occupancy

C3: Works to provide for visibility splays

C5: Roadside drain to be piped

C11: Planting of all site boundaries

C13: Wastewater treatment system

C14: Development Contribution

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning Officer's report generally reflects the decision of the Planning Authority.

3.2.2. **Other Technical Reports**

Environmental Health Officer: No objection subject to conditions in relation to the wastewater treatment system.

EE Roads: No objection subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

One observation received, the basis of which is addressed in the grounds of appeal.

4.0 **Planning History**

The following applications relate to the land immediately north of the entrance to the application site:

PL05E.242946 – Permission REFUSED by An Bord Pleanala for a house, shed and wastewater treatment system.

R1: Contrary to Policy RH-P-2 of the Donegal County Development Plan 2012 - 2018 ...and contrary to Rural Housing Objective RH-0-4

15/50075 – Permission REFUSED for a teach conaithe nua agus coras coireala searchais a thogail.

R1: Contrary to objective RH-0-4... and Policy RH-P-2

5.0 **Policy Context**

5.1. **National Policy**

- Sustainable Rural Housing, Guidelines for Planning Authorities (2005)
- EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009)

5.2. **Donegal County Development Plan 2018-2024 – effective from 5th June 2018**

5.2.1. The site in question is not governed by a specific zoning objective.

5.2.2. **Map 6.2.1 Rural Area Types:** The site is located within a Structurally Weak Rural Area.

5.2.3. **Map 7.1.1 Scenic Amenity Designations:** The site is within designation MSA (moderate scenic amenity), with views west over an area designated as HSA (high scenic amenity).

5.2.4. The following rural housing objectives are of relevance:

RH-O-4: To protect rural areas immediately outside towns from intensive levels of residential development and thus safeguard the potential for incremental growth of the towns and their potential beyond the plan period; to utilise existing physical and social infrastructure; and to avoid demand for the uneconomic provision of new infrastructure.

RH-O-5: To promote rural housing that is located, designed and constructed in a manner that is sustainable and does not detract from the character or quality of the receiving landscape having particular regard to the Landscape Classifications illustrated on Map 7.1.1 and contained within Chapter 7 of this Plan.

5.2.5. The following rural housing policies are relevant:

RH-P-1: It is a policy of the Council that the following requirements apply to all proposals for rural housing:

1. Proposals for individual dwellings shall be subject to the application of Best Practice in relation to the siting, location and design of rural housing as set out in Appendix 4 and shall comply with Policy RH-P-2;
2. Proposals for individual dwellings shall be sited and designed in a manner that enables the development to assimilate into the receiving landscape and that is sensitive to the integrity and character of rural areas as identified in Chapter 7 and Map 7.1.1 of this Plan. Proposals for individual dwellings shall also be located in such a manner so as not to adversely impact on Natura 2000 sites or other designated habitats of conservation importance, prospects or views including views covered by Policy NH-P-17.;
3. Any proposed dwelling, either by itself or cumulatively with other existing and/or approved development, shall not negatively impact on protected areas defined by the North Western International River Basin District plan;
4. Site access/egress shall be configured in a manner that does not constitute a hazard to road users or significantly scar the landscape, and shall have regard to Policy T-P-15;
5. Any proposal for a new rural dwelling which does not connect to a public sewer or drain shall provide for the safe and efficient disposal of effluent and

surface waters in a manner that does not pose a risk to public health and accords with Environmental Protection Agency codes of practice;

6. Proposals for individual dwellings shall be subject to the flood risk management policies of this Plan.;

7. In the event of a grant of permission the Council will attach an Occupancy condition which may require the completion of a legal agreement under S47 of the Planning and Development Act 2000 (as amended).

RH-P-2: It is a policy of the Council to consider proposals for a new rural dwelling which meets a demonstrated 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 new 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).

RH-P-4: Structurally Weak Rural Areas

It is a policy of the Council to consider proposals for new one-off housing within structurally weak rural areas from any prospective applicants with a need for a dwelling house (urban or rural generated need), provided they demonstrate that they can comply with all other relevant policies of this Plan, including RH-P-1 and RH-P-2. New holiday home development will not be permitted in these areas.

5.2.6. **Appendix 4 ‘Building a House in Rural Donegal - A Location, Siting and Design Guide’**

5.2.7. The following policies in relation to built heritage are relevant:

BH-P-4: It is a policy of the Council to ensure the repair, reuse and appropriate refurbishment of vernacular and/or historic buildings, which make a positive contribution to the built heritage of the area including those as referred to on the National Inventory of Architectural Heritage.

BH-P-6: 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 craftsmanship and do not have a detrimental impact on the character or appearance of a structure.

BH-P-8: It is a policy of the Council to facilitate appropriate and high quality design solutions including considerations of scale, proportion, detailing and material specification for development proposals affecting vernacular and/or historic buildings in both urban and rural settings.

5.3. **Natural Heritage Designations**

The site is not located within or adjacent to a Natura 2000 site. There are a number of Natura 2000 sites in this area of Donegal. Sheephaven SAC (s001190) is approx. 1.5km west and northwest of the site. Mulroy Bay SAC (002159) is approx. 3km to the northeast of the site. Cloghernagore Bog and Glenveagh National Park SAC (002047) is approx. 3km south/southwest of the site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal is summarised as follows

- The development plan allows for refurbishment of rundown or dilapidated rural buildings within areas of Especially High Scenic Amenity under certain circumstances. The applicant has failed in this regard to demonstrate that the building is capable of habitation without major structural rebuilding. No structural reports have been submitted in relation to the existing structure and whether dry stone walls can be built over.
- The submitted site suitability test could not determine T tests or P tests. The applicant has failed to demonstrate that wastewater treatment system can comply with EPA standards.
- The proposed polishing filter is located on a steep slope that drops over 2m from east to west. The EPA guidelines state that polishing filters shall be a minimum distance of 4m from any slope break/cut.
- Based on insufficient information, the applicant has failed to demonstrate on the basis of the insufficient information submitted how sewerage can be dispose of and treated safely and adequately. In addition, the topography of this site is not suited to deal with a wastewater treatment system.
- Development will generate additional traffic on local roads. The visibility splay is over third party lands and no letters of consent have been submitted. Vision splays have been shown in the horizontal plane but not the vertical. The applicant has failed to demonstrate there will be no road safety impediments.
- The design, size, height and finishes of the proposed refurbishment does not respect the architectural character of the original building type. The extension in terms of its mass and scale will be unbalanced, out of proportion and over complicated.

6.2. Applicant Response

None.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. The application was assessed under the previous Donegal County Development Plan 2012-2018. A new development plan is now in force, effective from 5th June 2018, and it is against this development plan that I will assess the new application.

7.2. The primary issues for assessment include;

- Rural Housing Policy
- Design of the Dwelling
- Vehicular Access
- Wastewater Treatment

Rural Housing Policy

7.3. The applicant is proposing to renovate what is described as a dilapidated dwelling and to extend this dwelling. The building is a vernacular stone dwelling, low and built into the hillside, with the northern section of the building comprising a brye for housing animals and an open store, and the southern section of the building was the habitable section. The building is roofed using corrugated iron. It is not clear when the building was last in habitable use, however it appears to have been long since abandoned as a dwelling. There is no evidence of a wastewater treatment system having existed.

7.4. The subject site is located within an area designated as a Structurally Weak Rural Area. A letter was submitted with the application from a local councillor stating that

the applicant is from Croaghan, Ramelton, a rural part of Donegal, and therefore complies with development plan policy. There is no information given in relation to the applicant's housing need and whether he owns a house. The Planning Authority accepted that the applicant complied with the rural housing policy, as set out under RH-P-4, whereby any person with a housing need can apply for permission:

It is a policy of the Council to consider proposals for new one-off housing within structurally weak rural areas from any prospective applicants with a need for a dwelling house (urban or rural generated need), provided they demonstrate that they can comply with all other relevant policies of this Plan, including RH-P-1 and RH-P-2.

- 7.5. Policies RH-P-1 and RH-P-2 will be considered further hereunder with regard to design and visual impact.

Design and Visual Impact

- 7.6. The grounds of appeal contends that the design, size, height and finishes of the proposed refurbishment does not respect the architectural character of the original building type. The extension in terms of its mass and scale will be unbalanced, out of proportion and over complicated.
- 7.7. Policy RH-P-2 seeks to ensure that new dwellings integrate successfully into the landscape and do not cause a detrimental change to or further erode the character of the area. Policy BH-P-8 of the development plan states it is a policy of the Council to facilitate appropriate and high quality design solutions including considerations of scale, proportion, detailing and material specification for development proposals affecting vernacular and/or historic buildings in both urban and rural settings.
- 7.8. While no background information has been submitted in relation to the existing dilapidated building on site, it is clear that it is an historic vernacular building, constructed of stone walls with a sheet iron roof finish. It is low in form (4.7m high) and built into the slope of the site. The southern section of the building was the habitable part and the northern section used to house animals.
- 7.9. The applicant proposes to alter the northern section of the building and construct a first floor over the original store and byre, connecting it into a new two storey extension perpendicular to the northern section and resulting in an L shaped plan. The entrance to the dwelling is to be relocated, with a new two storey flat roof

entrance created. The additional first floor is shown to be finished with stone, similar to the existing building, the two storey gable fronted extension is to comprise a painted smooth render and the two storey entrance/stairwell/landing is to be finished with vertical timber cladding. The overall height of the new extension is approx. 7.4m and the first floor element gives an overall height of approx. 6.5m.

- 7.10. The amendments to the original building, and the scale, proportion and finishes to the extension significantly alters the original character of the building and is unsympathetic to the original building structure. The building at present is built into the slope at a flat part of the site and while it is not as elevated as dwellings on the local road off which it gets access, it is a visually prominent area when viewed from the west. The existing building sits comfortably within the landscape, however the increased height of the building, in combination with the design and positioning on the site of the two storey extension, which extends further west from the original building line onto a more prominent point, will in my view result in a visually obtrusive extension, detracting from the amenity of the area/wider landscape and detracting from the character of the existing vernacular building on the site, contrary to policy BH-P-8 and RH-P-2.

Waste Water Treatment

- 7.11. There is no evidence that an existing wastewater treatment system existed on the site to serve the dilapidated dwelling. It is proposed to provide a new wastewater treatment system.
- 7.12. The grounds of appeal contends that as T tests or P tests could not be determined, the applicant has failed to demonstrate that wastewater treatment system can comply with EPA standards. The topography of the site is not suited to wastewater treatment. Furthermore, the EPA guidelines state that polishing filters shall be a minimum distance of 4m from any slope break/cut, whereas the proposed polishing filter is on a steep slope that drops over 2m from east to west. The grounds of appeal states the applicant has failed to demonstrate on the basis of the insufficient information submitted how sewerage can be disposed of and treated safely and adequately.
- 7.13. The GSI maps and site characterisation form indicate the site is located over an aquifer, classified as PI (Poor – Bedrock Aquifer which is generally unproductive

except for local zones). Groundwater vulnerability is classified as being extreme. In accordance with the EPA CoP, this indicates a groundwater protection response of R2(1), whereby the risk of contamination from a wastewater system is acceptable subject to normal good practice. Notable features in the vicinity of the site are stated to include Lough Nameeltoge which is c.500m to the west of the site, Lough Nambraddan Burn, c.150m west of the site and Drumreen Hill, c 500m south of the site. It is noted that there are a lot of septic tanks and treatment systems serving existing dwellings in the vicinity of the site. The land was under grass with a significant level of rushes and gorse observed.

- 7.14. The trial hole depth is indicated at 2m. The soil type is identified as peaty podzols, lithosols and peat. The soil comprises a clay loam to 0.5m depth, gravelly silt with gravels and cobbles at 0.5-0.7m depth, and an iron pan between 0.7-0.9m depth. The water table is stated to be at 1.3m depth. It is stated that the iron pan will restrict the flow of water and this will need to be broken up prior to the installation of the percolation pipes.
- 7.15. No T test result is given. It is stated that some water was in the T-Test holes on the morning of the test; the iron pan observed at 700-900mm together with the very heavy rain from the overnight rainfall will have contributed to the presence of water.
- 7.16. No P test value is given. It is stated that 'similar to the T-Test holes, small amounts of water were still visible; the iron pan and rainfall would have contributed to this, but it also indicates only a moderate percolation rate within the soil at this location'.
- 7.17. The proposal appears to comply with separation distances to key features and the scale of the percolation area required is acceptable. I note that the percolation area and septic tank are on slopes and are greater than 4m from a slope break/cut.
- 7.18. From site inspection, I noted the land on which it is proposed to located the percolation area and wastewater treatment system comprises a significant slope. A proliferation of rushes and gorse across the site was observed. This vegetation indicates poor drainage and this is reflected in the site characterisation form results of no values for the P and T test and soil assessment which indicates an iron pan layer in the subsoil.
- 7.19. The site characterisation form recommends a packaged wastewater treatment system and polishing filter 500mm above the existing ground levels. The iron pan

layer identified in the subsoil must first be broken up and the polishing filter is to be constructed a minimum 500mm above existing ground levels. The EHO report on file states that the iron pan layer encountered during excavation of the trial hole must be excavated over the entire area of the soil polishing filter and discarded. It also states that a gravel filled land drain must be constructed 2m up gradient of the soil polishing filter in order to protect the area from surface water run-off from the higher ground on the site. This land drain must connect to existing storm water drains. This is in accordance with the EPA CoP in relation to lands which are on slopes. It is also stated that land drains must be installed in order to control the onsite water table.

- 7.20. Based on the information submitted with the application, the existing ground conditions, the lack of P and T values, and requirement for land drains which have not been designed in as part of the application, I am not satisfied that the risk presented is justified and that the proposed development of the wastewater treatment system to serve an existing dilapidated building would not be prejudicial to public health,. Furthermore, there are a large number of rural dwellings located in the immediate area, which are connected to individual wastewater treatment systems. The addition of a dwelling at this location would, in my view, result in a proliferation of such systems in the area.

Vehicular Access

- 7.21. The grounds of appeal raises concern in relation to traffic generation and the right of the applicant to construct visibility splays on lands outside of his ownership with no written consent of the landowners presented.
- 7.22. I note the rural character of the area and the number of one-off houses which exist. I do not consider the addition of this dwelling would result in such a volume of traffic as to give rise to road safety concerns. In relation to the visibility splays, it is not clear to me from the information submitted that it is necessary to impact on the existing adjoining boundaries to achieve sightlines.

Appropriate Assessment

- 7.23. The site is not located adjoining or within a Natura 2000 site.
- 7.24. The site suitability assessment indicates the groundwater flow is in a west to east direction. There is a river located approx. 123m to the west of the proposed dwelling, which connects Lough Nameeltoge to Sheephaven Bay SAC. There is a drainage

ditch along the northern boundary of the site and surface water is to be piped north across the site to this open ditch, which then flows to the west. Given the groundwater and surface water flows are toward a stream connected to the Sheephaven Bay SAC and given the distances involved to the other sites in the area, it is considered that the Sheephaven Bay SAC is within the zone of influence of the site.

- 7.25. The conservation objectives for Sheephaven Bay SAC (001190) are to maintain or restore the favourable conservation status of habitats and species of community interest. The qualifying interests of the site are as follows: (* = priority): [1140] Tidal Mudflats and Sandflats; [1310] Salicornia Mud; [1330] Atlantic Salt Meadows; [1410] Mediterranean Salt Meadows; [2120] Marram Dunes (White Dunes); [2130] Fixed Dunes (Grey Dunes)*; [2190] Humid Dune Slacks; [21A0] Machairs*; [91A0] Old Oak Woodlands; [1395] Petalwort (*Petalophyllum ralfsii*); [1065] Marsh Fritillary (*Euphydryas aurinia*).
- 7.26. The risk factors to the SAC from this development relate to surface water and ground water, both of which act as source – pathway – receptors. The percolation area has been located west of the site at a lower ground and it is stated the overall wastewater treatment system will be constructed to EPA standards. There is a pan iron layer in the soil which is proposed to be removed from the area of the polishing filter prior to its development and a gravel filled land drain must be constructed 2m up gradient of the soil polishing filter in order to protect the area from surface water run-off from the higher ground on the site and this drain must be connected to existing surface water drains, which in this instance is a piped proposal. I note that all groundwater and surface water flows to the SAC. I note furthermore the high number of dwellings in this area and a proliferation of septic tanks in the vicinity. I also note the sloping site onto which it is proposed to position the percolation area and wastewater treatment system and level of associated works required. Having regard to the precautionary principle and 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. 001482 in view of the site's conservation objectives.

8.0 Recommendation

8.1. It is recommended that permission is refused.

9.0 Reasons and Considerations

1. It is considered that the proposed dwelling would be contrary to Policy RH-P-2 of the Donegal County Development Plan 2018-2024 on the grounds that the proposed development with two storey extension would not adequately integrate successfully into the landscape and would further erode the rural character of the area. It is also considered that the proposed development in conjunction with other dwellings in the vicinity would exacerbate the suburban pattern of development in this rural area and would give rise to the demand for uneconomic provision of infrastructure in the hinterland of Carrigart Village which would be contrary to Rural Housing Objective RH-0-4. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the sloping nature of the land, the soil conditions and to the significant level of site works proposed to support the percolation area, in addition to the proximity to a stream connected to Sheephaven Bay SAC, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system and accordingly the Board cannot be satisfied that the proposed development, individually or in combination with other plans and projects, would not be likely to have a significant effect on this European site, in view of the site's conservation objectives. The proposed development would, therefore, be prejudicial to public health, would pose an unacceptable risk of environmental pollution and would be contrary to the proper planning and sustainable development of the area.

Una O'Neill
Senior Planning Inspector

2nd July 2018