



An
Bord
Pleanála

Inspector's Report ABP-301439-18

Development	Construction of a new dwelling, sewage treatment system and ancillary site works as previously applied for under planning references 07/50162, 12/40191 and 17/50809.
Location	Aghnaghaddy, Glebe, Ramelton, County Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	18/50125
Applicant(s)	Roisin Boyce
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Roisin Boyce
Observer(s)	None
Date of Site Inspection	19th July 2018
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Aghangaddy Glebe approximately 2km south of Ramelton and 9km north-east of Letterkenny. The surrounding area is characterised by rolling agricultural lands and forestry plantations.
- 1.2. The site is accessed off the R245 Regional Route via a local road commencing at a 'T' junction approximately 160m to the north-west. There are detached dwellings along this local road, mostly on its south-western side from the 'T' junction to a crossroads approximately 700m south of the site. Ribbon development can also be found throughout the wider area.
- 1.3. The site is an infill location between a crescent of four dwellings and a line of six dwellings. A small stream continues along the south-eastern boundary. The site has a trapezium shape with stated area of 0.2974 hectare. The north-western half of the site includes an existing dwelling and the south-eastern half is overgrown with mature trees aligning the riparian boundary.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a new dwelling (200 sq.m.), sewage treatment system and ancillary site works, as previously applied for under Reg. Refs: 07/50162, 12/40191 and 17/50809.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Donegal County Council issued notification of decision to refuse permission for three reasons relating to overlooking the adjoining property to the north; failure to demonstrate required visibility splays; and provision of an inappropriate combined wastewater percolation area to serve existing and proposed dwellings.

3.2. Planning Authority Reports

- 3.2.1. The recommendation to refuse permission in the Planner's Report reflects the decision of the Planning Authority.

3.2.2. The following is a summary of the comments contained under the assessment of the application:

- Proposal is a repeat application with revised siting of proposed dwelling; revised access; and decommissioning of percolation area serving existing dwelling and provision of a shared percolation area.
- Applicant has confirmed a rural housing need – applicant or immediate family members have resided at some time within the community for a period of at least 7 years.
- Revised layout presents similar concerns regarding overlooking for the adjoining dwelling to the north, constituting a disorderly and substandard form of development.
- Alignment of proposed access gives rise to further disorderly development and amenity concerns, while an inaccurate identification of the 70m visibility splay, together with an absence of a traffic speed survey, mean that it remains to be established whether or not a derogation from the minimum splay of 160m is acceptable.
- None of the three previous reasons for refusal have been addressed and overcome and it is considered necessary to refuse permission.

3.2.3. The EHO recommends refusal based on the constraints of the site and inappropriate combined percolation area, which fails to meet minimum EPA standards.

4.0 Planning History

Donegal County Council Reg. Ref: 07/50262

4.1. Permission granted for the erection of a dwelling house, sewage treatment system and connection to existing percolation area.

Donegal County Council Reg. Ref: 07/50162

4.2. Permission granted for the erection of a dwelling house, sewage treatment system and connection to existing percolation area.

Donegal County Council Reg. Ref: 10/40209

- 4.3. Permission granted for change of house type from that previously granted (planning permission ref. 07/50162 refers).

Donegal County Council Reg. Ref: 12/40191

- 4.4. Extension of duration of permission granted to 24th June 2017 (parent permission Reg. Ref: 07/50162).

Donegal County Council Reg. Ref: 12/40141

- 4.5. Extension of duration of permission granted to 24th June 2017 (parent permission Reg. Ref: 10/40209).

Donegal County Council Reg. Ref: 17/50809

- 4.6. Permission refused for construction of a new dwelling, sewage treatment system & ancillary site works as previously applied for under Reg. Refs: 07/50162 & 12/40191.
- 4.7. There were three reasons for refusal relating to disorderly and substandard form of development that would be injurious to the privacy, amenity and value of adjoining property; visibility splays; and failure to comply with minimum separation distances set out in the EPA's Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (2009).

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site is located within a 'stronger rural area'. Section 6.3 of the Development Plan includes policies and objectives for rural housing.
- 5.1.2. '*Building a Rural House in Rural Donegal - A Location, Siting and Design Guide*' is set out in Part B, Appendix 4. Other development guidelines and technical standards are included in Part B, Appendix 3.
- 5.1.3. The site is approximately 1.5km south of Rathmelton Settlement Framework Boundary.

5.2. Natural Heritage Designations

- 5.2.1. The Leannan River SAC is approximately 2.2km north-west of the appeal site and the Lough Swilly SPA and SAC are both located 2.2km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first party appeal was lodged against the Council's decision on behalf of the applicant. The grounds of appeal and main points raised in this submission can be summarised as follows:

- Location of dwelling will ensure that family remains sited in close proximity to each other – sustainable development in the area must surely take account of family and the underlying basis for the making of these small communities.
- Privacy is not considered an issue as it will be within the same family plot.
- Site is located on a straight road with potential for adequate sight line achievement – latest application provides sight line measurements from existing access that is safe to use.
- Local road will be capable of accommodating relatively minor traffic generated by new dwelling.
- Applicant, her partner and small child currently live in the adjacent house and the total occupancy of the dwelling is 6 persons – there will be no intensification of usage of wastewater treatment system by moving to new dwelling.
- Percolation area is easily capable of containing the required lengths of pipework to service a population equivalent of 9.
- EHO states that an alternative filtration system should be available in the event of failure – if infiltration failure were to occur, cleaning, maintenance or replacement options could be utilised.

- Given that all EPA guideline separation distances are complied with, consideration should be given to the suitability of the site for effluent treatment.

6.2. **Planning Authority Response**

- 6.2.1. The Planning Authority notes that the matters raised in the first party appeal have previously been addressed in the Planner's Report. The Board is requested to uphold the decision of the Planning Authority.

7.0 **Assessment**

- 7.1. I consider that the key issues in determining this appeal are as follows:

- Rural housing need;
- Layout and impact on residential amenity;
- Access and sight lines;
- Wastewater treatment and disposal; and
- Appropriate Assessment

7.2. **Rural Housing Need**

- 7.2.1. The appeal site is located in a "stronger rural area" where it is the policy of the Council (RH-P-3) to consider proposals from persons whose primary employment is in a rural-based activity with a demonstrated genuine need to live in the locality of that employment base; persons with a vital link to the rural area (7 years personal residence, family residence or providing care to resident); or persons who, for exceptional health circumstances, can demonstrate a genuine need to reside in a particular rural location.

- 7.2.2. It is stated within planning application documentation that the applicant has been living all her life in the neighbouring dwelling belonging to her parents. This is confirmed by a public representative. The Planning Authority is therefore satisfied that the applicant has an intrinsic link to the area and therefore meets the relevant rural housing needs criteria.

7.3. **Layout and Impact on Residential Amenity**

- 7.3.1. The Council's first reason for refusal refers to Policy RH-P-2 and specifically to considerations relating to the positioning, siting or location of a proposed dwelling. It is considered that the proposed 1 ½ storey dwelling with access road travelling in unacceptable proximity to the adjoining dwelling constitutes a disorderly and substandard form of development, which would seriously injure the privacy, amenity and value of the adjoining property.
- 7.3.2. In response, the first party appellant states that the location of the proposed dwelling will ensure that the family remains sited in close proximity to each other. It is submitted that privacy is not considered to be an issue in this case, as both dwellings will be in the same family plot.
- 7.3.3. In my opinion, it is difficult to develop separate dwellings within the one plot with shared amenities and infrastructure. Essentially, there is no clear distinction between the amenity space, access and wastewater treatment facilities serving each property. The access to the proposed dwelling impinges on the curtilage of the existing property and both dwellings have separate septic tanks draining to a shared percolation area. Both dwellings would be in the ownership of the applicant and her family; however, there is the possibility in the future that these dwellings could be in separate ownership, which creates issues concerning subdivision, shared maintenance and impact on residential amenity. I would therefore be in agreement that the proposed development gives rise to a disorderly and substandard form of development.
- 7.3.4. In addition to the above, Policy RH-P-2 of the Development Plan states that the creation or expansion of a suburban pattern of development or the creation or addition to ribbon development shall be avoided. Ribbon development is defined as generally five houses on any one side of a 250m road frontage.
- 7.3.5. The proposed dwelling will be the sixth dwelling along a 250m frontage at this location. When viewed together with dwellings in the crescent to the north-west of the site, and other one-off dwellings in proximity to this cluster, an additional dwelling will contribute to the further erosion of the rural character of the area.

7.3.6. I would therefore be of opinion that the proposed development would expand the suburban pattern of development in this rural area and militate against the preservation of the rural environment.

7.4. Access and Sightlines

7.4.1. Under the second reason for refusal, the Council is not satisfied that safe visibility splays can be provided in each direction from the site access to required standards.

7.4.2. Policy T-P-15 of the Donegal County Development Plan, 2018-2024 seeks to *“...require that all development proposals comply with the Development and Technical Standards set out in Appendix 3 to promote road safety.”* Table 3 sets out vision lines requirements at accesses to non-national rural roads, outside 60 kph speed limit zones.

7.4.3. The site layout plan illustrates sight lines of 70m in both directions from the proposed access, which currently acts as an existing side access to the family dwelling. According to the Planning Authority, the 70m sightlines have been inaccurately identified, and together with the absence of any traffic speed survey, it is considered that a derogation from the minimum standard visibility splays of 160m may not be acceptable.

7.4.4. I note from the site layout plan that the sight line to the left of the access is measured to the opposite side of the road and it is illustrated in Figure 3 of the Development Plan that these distances should be measured to the near side of the road unless there is a constraint on overtaking. I consider, however, that the applicant has adequate control over road fronting boundaries either side of the proposed access to provide adequate sightlines if the Board is minded to grant permission for the proposed development. It should be noted that it is proposed to use an existing domestic access onto a public road notwithstanding its current secondary nature. Furthermore, the local road is straight and the volumes of traffic accessing the site will be low. The access is situated approximately 140m from the ‘T’ junction onto the R245 and it is likely that vehicles passing the site will either have begun to slow down or will not have fully accelerated when approaching/ leaving the junction. In these circumstances, I consider that 70m sightlines are acceptable.

7.4.5. However, as noted above, my concerns relate more to the access driveway within the site and its impact on the curtilage and amenity of the existing dwelling on site.

7.5. **Wastewater Treatment and Disposal**

7.5.1. The third reason for refusal states that the proposed development fails to comply with the EPA recommended 'minimum separation distances' as set out under Table 6.1 of the "Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (2009)", and otherwise provides for an inappropriate combined percolation area to serve the existing and proposed dwellings.

7.5.2. The Site Suitability Report submitted with the planning application notes that the aquifer is poor and groundwater vulnerability is extreme. The water table or bedrock were not encountered within the 1.8m trial hole excavated on site. The 'T' test recorded a value of 15.72. It would appear that the trial and test holes were excavated in the part of the site where the percolation area was previously proposed. The newly proposed percolation area is located further to the south-east of the site in closer proximity to the stream.

7.5.3. I note that the proposed percolation area is located at the minimum recommended distances from the watercourse, site boundary, trees and road. I would be in agreement that there are concerns regarding the combined effect of designing the system to minimum separation distances from all of these features.

7.5.4. As noted above, I would also have concerns that shared wastewater treatment infrastructure serving two sites could bring about issues in terms of responsibility for maintenance/ repair if one or both of the dwellings on site were sold off to separate owners.

7.5.5. My main concern, however, in this case is the number of dwellings in this immediate area served by septic tanks. There are 13 dwellings in the immediate cluster either side of the stream, as well as widespread one off housing on surrounding local roads. It is stated in the EPA's Code of Practice that *"the density of dwellings and associated treatment systems may impact on the groundwater because of the cumulative loading, particularly of nitrate. This should be taken into account especially where the vulnerability of the groundwater is high or extreme."*

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature of the proposed development and/or nature of the receiving environment and/or proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the positioning, siting and location of the proposed dwelling in relation to the existing dwelling, and to the proposals for shared facilities and infrastructure on site, it is considered that the development, by reason of its layout and access arrangements, would constitute a disorderly and substandard form of development that would be injurious to the residential amenity of the site and adjoining property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, taken in conjunction with existing development in the area, would constitute an excessive density of suburban-type dwellings in a rural area, which would militate against the preservation of the rural environment. Furthermore, the proposed development would contribute towards undesirable ribbon development in a rural area outside lands zoned for residential development and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the extreme groundwater vulnerability at this location, it is considered that the proposed development, taken in conjunction with existing development in the vicinity, would result in an excessive concentration of development served by individual wastewater treatment systems, and would constitute an unacceptable risk of groundwater pollution connected with the

disposal of wastewater. Furthermore, the Board is not satisfied with the proposals for a shared percolation area with the adjoining dwelling having regard to future maintenance/ repair responsibilities. The proposed development would, therefore, be prejudicial to environmental and public health.

Donal Donnelly
Planning Inspector

16th November 2018