



An
Bord
Pleanála

Inspector's Report ABP-301443-18

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| Development | REMOVAL OF EXISTING BASE OF APPROVED DWELLING AND ERECTION OF A NEW DWELLING HOUSE WITH SEPTIC TANK AND DOMESTIC GARAGE |
| Location | Bohirril, Mountain Top, Letterkenny County Donegal |
| Planning Authority | Donegal County Council |
| Planning Authority Reg. Ref. | 18/50175 |
| Applicant(s) | Martin Friel |
| Type of Application | Permission |
| Planning Authority Decision | Grant permission |
| Type of Appeal | Third Party |
| Appellant(s) | Kevin & Mandy McGarvey |
| Observer(s) | None |
| Date of Site Inspection | 19 th July 2018 |
| Inspector | Donal Donnelly |

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Bohirril approximately 5km north of Letterkenny town centre and 5.5km south-west of Ramelton. The site sits on the western side of Carn Hill at an elevation of approximately 140m OD. The surrounding area is characterised by rural/ suburban type residential development, farmland and forestry plantations.
- 1.2. The site is located to the south of a cluster of approximately 20 detached dwellings aligning both sides of the local road. Access to the site is from an existing laneway shared with an adjoining property. There is a nearby bend in the road and the site falls in level away from this corner towards mature tree planting along the eastern side boundary. A stream continues along this boundary to Lough Agannon, which is approximately 170m south-west of the site.
- 1.3. The stated area of the site is 0.5 hectare. The base of an unfinished previously approved dwelling sits towards the west of the site. There are existing dwellings adjoining the site to the west and north.

2.0 Proposed Development

- 2.1. Planning permission is sought for the removal of an existing base and the erection of a new dwelling house with septic tank and domestic garage immediately to the east. The stated area of the dwelling is 199 sq.m. and the garage will be 47 sq.m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Donegal County Council issued notification of decision to grant permission for the proposed development subject to 16 conditions.
- 3.1.2. Conditions were attached relating to relocation of the dwelling, occupancy, access, drainage, visual amenities, boundary treatment, water supply, wastewater treatment and disposal and development contributions.

3.2. Planning Authority Reports

- 3.2.1. The recommendation of grant permission in the Planner's Report reflects the decision of the Planning Authority.
- 3.2.2. The following is a summary of the comments outlined within the assessment of the application:
- Applicant has a confirmed housing need – parents and grandparents have resided at some time within the 'rural area under strong urban influence' for a period of 7 years.
 - Subject site comprises a generous brownfield site where subfloor has been constructed and is served by an existing dual entrance and surrounded by adjoining suburban influenced one off dwellings.
 - Proposed dwelling and domestic garage successfully integrate with the subject site and the character of the adjoining area; however, overall siting requires minor refinement to address third party concerns.
 - Dwelling shall be relocated 10m east to maximise separation distances to 15m and 10m respectively to protect residential amenity.
 - Partially completed entrance serving original dwelling (Reg. Ref: 03/7513) shall be closed as a condition of permission
- 3.2.3. Conditions relating to wastewater treatment and disposal were recommended by the EHO.

4.0 Planning History

Donegal County Council Reg. Ref: 03/7513

- 4.1. Permission granted in August 2003 for the erection of a 2-storey dwelling and septic tank (Herbert Boal). Permission previously refused (03/7006) for a 2-storey dwelling and septic tank.

Donegal County Council Reg. Ref: 03/7514

- 4.2. Permission granted in August 2003 for the erection of a 2-storey dwelling and septic tank (Liam Boal) on an adjoining site.

Donegal County Council Reg. Ref: 07/50058

- 4.3. Permission granted for change of house type from previously approved Reg. Ref: 03/7513.

Donegal County Council Reg. Ref: 07/50058

- 4.4. Permission granted for change of house type from previously approved planning application reference no. 03/7514.

Donegal County Council Reg. Ref: 07/50599

- 4.5. Permission granted in August 2007 for (1) new private access road from approved dwelling (ref 07/50058) connecting to previously approved access road (Reg. Ref:03/7513), (2) remove part of previously approved driveway as previously approved (Reg. Ref: 03/7514).

5.0 **Policy Context**

5.1. **Donegal County Development Plan, 2018-2024**

- 5.1.1. The appeal site is located within a rural 'area under strong urban influence'. 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 north of the Letterkenny & Environs plan boundary.

5.2. **Natural Heritage Designations**

- 5.2.1. The Leannan River SAC and Ballyarr Wood SAC are approximately 2.7km and 3km north of the appeal site respectively. The Lough Swilly SPA and SAC are both located 3.8km to the south-east.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal was lodged by Kevin and Mandy McGarvey, residents of the neighbouring dwelling to the north of the appeal site.
- 6.1.2. The appellants refer to Condition 2 of the Council's decision relating to the relocation of the dwelling. It is considered that this condition only partly ameliorates the loss of privacy and residential amenity that will be experienced by the appellants.
- 6.1.3. The appellants submit that the appeal site is large enough to accommodate the proposed buildings in a location that is in keeping with the rest of the cluster of houses, that would not have an impact on the appellant's dwelling.
- 6.1.4. It was noted in the submission to the Council that the appellants are not fundamentally opposed to a dwelling house/ garage, provided it is sited in harmony and having regard to the spacing arrangement with other dwellings.

6.2. Applicant Response

- 6.2.1. The applicant responded to the third party appeal with the following comments:
- Revised site layout relocated the proposed dwelling away from appellants' boundary fence to protect the amenity of both properties.
 - Proposed dwelling has no windows on the north gable to protect the privacy of the appellants' property.
 - Proposed garage between appellants' house and proposed house acts as a buffer and provides privacy.
 - There is a significant difference in ground levels from the appellants' house and the proposed dwelling.
 - Appellants didn't buy their house until after construction of the permitted dwelling on site had commenced.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority notes that all matters raised in the third party appeal have previously been addressed in the Planner's Report. The Board is asked to uphold the decision of the Planning Authority in this case.

7.0 Assessment

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

- Rural housing need;
- Impact on residential amenity;
- Visual impact;
- Wastewater treatment and disposal; and
- Appropriate Assessment

7.2. Rural Housing Need

- 7.2.1. The appeal site is located in a rural "area under strong urban influence". Policy RH-P-5 states that the Council will "...consider proposals for new one-off rural housing within Areas Under Strong Urban Influence from prospective applicants that have demonstrated a genuine need for a new dwelling house and who can provide evidence that they, or their parents or grandparents, have resided at some time within the area under strong urban influence in the vicinity of the application site for a period of at least 7 years. The foregoing is subject to compliance with 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."
- 7.2.2. The Development Plan recognises that it is necessary to manage the extent of development in "areas under strong urban influence", whilst facilitating applicants with a genuine "rural generated housing need". Those with a genuine rural generated housing need could be described as persons who are an intrinsic part of the rural community or persons who work full-time or part-time in rural areas.
- 7.2.3. The applicant has not submitted any evidence from a local school or other organisation to show any intrinsic link to the local rural area. It is not confirmed that

his grandparents or parents have resided in the vicinity of the site for at least 7 years and there does not appear to be any evidence of the applicant's current living arrangements or whether or not this will be a first home for permanent residence. No details of the applicant's employment status are provided, or whether or not he works full-time or part-time in this rural area.

- 7.2.4. The only information appended to the planning application to demonstrate any compliance with the rural housing policy is a letter from a local councillor, asserting that the applicant qualifies for rural housing need under Section 5.3 of the Donegal County Development Plan, 2012-2018, and that the applicant can provide evidence that he, or his parents, have resided in those areas (Areas Under Strong Urban Influence) for a period of 7 years. However, no such evidence accompanies this planning application or appeal.
- 7.2.5. I consider that the applicant has failed to demonstrate compliance with the Council's rural housing policy. Policy RH-P-5 clearly sets out what is required of an applicant to demonstrate a genuine need for a rural house at a particular location. I consider that this has not been achieved in this instance based on the information submitted with the application.

7.3. Impact on residential amenity

- 7.3.1. Condition 2 attached to the Council's notification of decision requires the relocation and setting back of the proposed dwelling from the northern site boundary. This condition, in response to an observation from the residents of the dwelling to the north, seeks to protect the residential amenity of both adjoining and future residents.
- 7.3.2. Notwithstanding this, the adjoining residents appealed the Council's decision on the grounds that Condition 2 only partially ameliorates their concerns regarding loss of privacy. It is considered that the subject site is large enough to accommodate the proposed buildings in a location that does not impact on the appellant's property.
- 7.3.3. In response to the third party appeal, the applicant points out that the proposed dwelling will have no windows on the northern gable and the domestic garage will act as buffer between the dwellings. The significant difference in ground levels between properties is also highlighted.

7.3.4. The proposed and existing dwellings will have a separation distance of approximately 30m and it should be noted that a screen hedgerow is proposed along the northern boundary. The Board may consider it appropriate to attach a condition to any grant of permission requiring further details of the species of planting along the boundary and landscaping throughout the site.

7.4. **Visual Impact**

7.4.1. When considering the acceptability of a rural housing proposal, 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.

7.4.2. The proposed dwelling will be the fifth dwelling along a 250m frontage at this location. On the one hand, the topography of the area and the bend in the road may negate to some extent the adverse visual impacts associated with ribbon development. However, it should also be noted that there are seven dwellings along a 275m frontage on the opposite side of the road. When viewed together with the 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.

7.4.3. 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.

7.5. **Wastewater Treatment and Disposal**

7.5.1. It is proposed to serve the site with a 2-chambered 4m³ septic tank draining to a percolation area located to the south of the site. Water supply will be from public mains. The Site Suitability Report submitted with the planning application notes that the aquifer is poor and groundwater vulnerability is extreme. The water table was not encountered within the 1.6m trial hole excavated on site and depth to bedrock was stated to be 1.6m. The 'T' test recorded a value of 42.22.

7.5.2. I would have some concern that the existing percolation area serving the neighbouring dwelling to the north is up-gradient and at a distance of approximately

17m from the proposed dwelling. The EPA's Code of Practice recommends a separation distance of 10m between a percolation area and any dwelling. However, I note the steep gradient and the estimated groundwater flow direction in this case.

7.5.3. There is a stream flowing along the eastern boundary of the site as close as 23m from the proposed percolation area. Rushes were present on the southern part of the site, which may indicate a high water table notwithstanding the fact that there was no water table present in the trial hole.

7.5.4. My main concern, however, in this case is the number of dwellings in this immediate area served by septic tanks. There are approximately 25 dwellings, as well as a lake, a number of streams and a sloping topography within a 400m radius. 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 location of the site within an "Area Under Strong Urban Influence" as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, and in an area where housing is restricted to persons

demonstrating local need in accordance with the current Donegal County Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. Based on the information submitted with the planning application and appeal, the proposed development, which does not cater for locally derived housing needs, would conflict with the policies of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. Taken in conjunction with existing development in the area, the proposed development 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. The proposed development would, therefore, be prejudicial to environmental and public health.

Donal Donnelly
Planning Inspector

16th November 2018