



An
Bord
Pleanála

Inspector's Report ABP-301915-18

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| Development | Single-storey detached garage, balcony at first-floor to the rear, landscaping and boundary works |
| Location | 10 Finvola Park, Dunfanaghy, County Donegal |
| Planning Authority | Donegal County Council |
| Planning Authority Reg. Ref. | 17/51912 |
| Applicant(s) | Trevor Ferguson |
| Type of Application | Retention Permission & Permission |
| Planning Authority Decision | Split |
| Type of Appeal | Third-Party |
| Appellant(s) | Brian Mallon |
| Observer(s) | None |
| Date of Site Inspection | 5 th December 2018 |
| Inspector | Colm McLoughlin |

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1.0 Site Location and Description

- 1.1. The appeal site is located in Finvola Park, a residential estate containing 21 houses, which is accessed off the Old Cottage Road (local road L-3233-1), approximately 775m to the south of Dunfanaghy town centre.
- 1.2. It contains a two-storey semi-detached dwelling with hipped-dormer style windows to the front and rear. The external finishes to the dwelling on site include render to the walls and a roof finished with blue/black tiles. To the rear of the house is a single-storey lean-to garage adjoining a rear patio area. To the front of the house there is a shallow garden and to the side there is a hardstanding area for off-street parking. The rear boundary comprises a rendered wall of varying height.
- 1.3. The surrounding area is primarily characterised by pairs of semi-detached and detached dwellings, including low-density suburban housing. The site backs onto an agricultural field. Ground levels in the vicinity drop significantly in a northerly direction towards the Old Cottage Road with the appeal site on ground approximately 1.6m lower than the adjoining property to the north, No.11 Finvola Park.

2.0 Proposed Development

- 2.1.1. The proposed development for retention comprises the following:
 - extension to the rear comprising a projecting balcony space at first-floor level and replacement of a first-floor window with double-doors onto this balcony space;
 - a single-storey flat roof detached garage with a gross floor area of approximately 15sq.m and open fuel store to the side;
 - landscaping works, including paving of the rear garden area and boundary treatments comprising low-level brick wall features to the rear.
- 2.1.2. The proposed development comprises the following:

- installation of a c.1.5m-deep screen structure extending from ground to roof eaves level to the rear northside boundary with No.9 Finvola Park;
- removal of external stairs access and parapet wall to terrace space over the garage.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a notification of a split decision for the development. Retention permission for the double-doors and the projecting balcony extension was refused as was permission for the proposed screen to the boundary for the following reason:

Reason 1. – the balcony served by double-doors and a screen, result in substandard overdevelopment of the site, has an incongruous negative visual impact and results in overlooking and potential overshadowing of third-party properties.

- 3.1.2. A decision to grant retention permission for the garage and associated works, as well as the landscaping and boundary treatment works was issued, subject to three conditions of a standard nature.

3.2. Planning Authority Reports

- 3.2.1. Planning Report

The initial report of the Planning Officer (February 2018) noted the following:

- the site is subject of an enforcement notice relating to aspects of the development mentioned in the application development description;
- the balcony is an incongruous feature, which is highly visible from the local road network, results in direct overlooking of adjoining properties and would set a precedent for similar development;
- surface water drainage details are required with respect to the hard surfacing works and the disposal of storm water from the garage roof;

- as the balcony is unacceptable, the screen would not be necessary.

The second report of the Planning Officer (April 2018) noted the following:

- the applicant has failed to show how they would treat the walls to the garage.

A final report from the Planning Officer (May 2018) reflects the split decision of the Planning Authority and noted the following:

- white cladding would be affixed to the south side wall of the garage.

3.2.2. Other Technical Reports

- Roads & Transportation - no objection, subject to conditions.

3.3. Prescribed Bodies

3.3.1. None requested.

3.4. Third-Party Submission

3.4.1. Four submissions were received by the Planning Authority during consideration of the application, all from neighbouring residents of Finvola Park (Nos.5, 6, 10 & 22). The issues raised are covered within the grounds of appeal below.

4.0 Planning History

4.1. Appeal Site

4.1.1. The following is the only recent planning application relating to the appeal site:

- Donegal County Council (DCC) Ref. 05/2739 – Permission granted (February 2006) for the construction of 21 houses, subject to a condition (19) that restricts standard exempted development rights for the houses.

4.2. Surrounding Sites

4.2.1. There have been no recent planning applications relating to other houses within Finvola Park. The lands to the rear have been subject of numerous recent applications for housing to be accessed via a road along the western boundary adjoining Finvola Park and the appeal site:

- DCC Ref. 17/50906 – Permission granted (November 2017) for change of house type granted under Ref. 11/30345 with connection to wastewater treatment system;
- DCC Ref. 17/50691 – Extension of duration of permission Ref. 11/30345 granted (June 2017) for two dwellinghouses with wastewater treatment systems;
- DCC Ref. 11/30345 – Permission granted (May 2012) for two dwellinghouses with wastewater treatment systems previously granted under Ref. 05/30473;
- DCC Ref. 05/30473 – Permission granted (April 2006) for two dwellinghouses with wastewater treatment systems and an access road.

5.0 Policy Context

5.1. Donegal County Development Plan

5.1.1. Based on maps accompanying the Donegal County Development Plan 2018-2024, the appeal site is situated within the settlement framework boundary for Dunfanaghy.

5.1.2. Relevant planning policies for the proposed development are set out under Section 6.2 (Urban Housing) and Appendix 3 (Development Guidelines and Technical Standards) within Parts A & B of the Development Plan. Amongst other National Guidelines, the urban housing policies and objectives of the Plan are supported by 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007). Policy UB-P-12 of the Plan seeks to 'protect the residential amenity of existing residential units and to promote design concepts for new housing that ensures the establishment of reasonable levels of residential amenity'. Policy UB-P-27 of the Plan is relevant to the subject appeal:

- 'Proposals for extension to a dwelling shall be considered subject to the following criteria:
 - (a) The development reflects and respects the scale and character of the dwelling to be extended and its wider settlement;

(b) Provision is made for an adequate and safe vehicular access and parking;
and

(c) The proposal would not adversely affect the amenity of adjoining properties’.

5.1.3. Two car parking spaces per dwellinghouse are required based on Table 6 to Appendix 3 of the Plan.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One third-party appeal has been submitted from the adjoining owner of No.11 Finvola Park, with photographs included. The issues raised can be summarised as follows:

Orderly Development

- the application came on foot of an enforcement notice (DCC Enforcement Ref. UD17118);
- the parent permission for Finvola Park (DCC Ref. 05/2739) included a condition (19), which states that:

“No other development, whether or not ‘exempted development’ shall be carried out within the site without prior written agreement of the Planning Authority.

Reason: To cater for orderly development”.

- The existing roller garage door, flag paving and external oven feature are not proposed for retention;
- details of the material for the proposed screen have been omitted and it is unclear if all works to restrict use of the rooftop terrace to the garage have been set out;
- difficulties remain with respect to applying finishes to the south side of the garage wall and maintaining same along the shared boundary with No.11;
- the garage includes a window facing opening onto a field to the rear;

- the development sets precedent for similar development;

Visual Amenities

- proposals for retention do not integrate in a positive manner with surrounding housing in Finvola Park, nor do they complement the host dwelling or promote quality residential development, as required under the provisions of the Development Plan. This is particularly pertinent considering the prominence of the development in the landscape and the local context;

Residential Amenities

- the proposed reduction in the width of the balcony and the removal of the parapet walls from the garage would to some extent address overlooking, but the screen would not be in character with the area and would present problems for neighbouring residents;
- the garage would continue to impact negatively on local amenities and property values;
- overlooking would remain an issue from the balcony to the rear of housing on lower lands to the north.

6.2. Applicants' Response

6.2.1. The applicant's response to the grounds of appeal can be summarised as follows:

Orderly Development

- the initial development works were undertaken in good faith, without knowledge of the restriction on exempted development attached to the parent permission for the estate;
- the balcony structure refused retention permission has since been removed and the parapet wall and external stairs to the garage have also been removed (photographs included);

- comments raised by the appellant with respect to the roller shutter and garden external oven feature are indicative of the unreasonableness of the appellant and the vexatious reason for the appeal;

Amenities

- the location of the garage is in the optimum location on site within an urban context;
- the garage is no higher than the timber boundary fence on the appellant's boundary and is therefore not injurious to residential or visual amenities;
- the white cladding panels can be attached to the garage wall without the need enter the adjoining appellant's property.

6.3. Planning Authority Response

6.3.1. The Planning Authority response to the grounds of appeal raised the following:

- the garage, landscaping and boundary treatments were considered acceptable with respect to scale, use, design and impact on the host and neighbouring properties;
- the roller shutter and flag paving form part of the development for retention. While the external oven, may not have been mentioned in the application, the applicant stated that some elements referenced in the enforcement notice were addressed prior to lodging the application.

6.4. Observations

6.4.1. None received.

7.0 Assessment

7.1. Introduction

7.1.1. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Design & Amenities.

7.2. Design & Amenities

7.2.1. From the outset I note that the split decision issued by the Planning Authority in June 2018, refused retention permission for the balcony. The applicant has since removed the rear balcony feature, while the double-doors that replaced the first-floor window remain.

7.2.2. The Planning Authority's decision to refuse retention permission for the balcony raised concerns with regard to overlooking of neighbouring properties and the potential for overshadowing. Overshadowing could only arise with respect to No.9, the attached house to the north on a slightly lower level, and I am satisfied that excessive overshadowing of living space or garden space to this house would not arise given the scale and depth (c.1.4m) of the balcony and its distance (c.2m) from neighbouring property windows. Overlooking of No.11 would also not arise, as the balcony would be set off the boundary by 5.3m. Nevertheless, I note that the applicant proposed a screen could be attached to the south side of the balcony. A similar screen, to that proposed on the south side could be attached to the north side of the balcony, to address excessive direct overlooking of No.9 and I am satisfied that this would negate the need to install the proposed 1.5m-deep screen structure from ground to roof eaves level along the side boundary with No.9. Consequently, I consider that the use of the balcony would not detrimentally impact on the residential amenities of neighbouring residents as a result of potential for excessive direct overlooking. However, the balcony feature and proposed screen would not complement the design and proportions of the host house and, as such, would appear as incongruous additions to the rear of the house and would seriously injure the visual amenities of the area. Accordingly, the balcony extension and proposed screen would be contrary to Policy UB-P-27 of the Development Plan, which requires

extensions to reflect and respect the scale and character of the host dwelling, and permission should be refused for these elements of the development.

- 7.2.3. Since the decision of the Planning Authority was issued, the applicant has removed the parapet walls and external stairs to the terrace on the roof of the garage. Mono-pitch cladding with a slight fall into the site is proposed to be installed to the roof. The grounds of appeal assert that the garage, is injurious to the residential amenities of the area. The garage is north of No.11 and therefore cannot excessively overshadow this property. There are no windows to the side of the garage, therefore, overlooking does not arise. The window to the rear overlooks a field, which is subject of recent residential planning permission (DCC Ref. 17/50906) that includes an access road running along the rear boundary with Finvola Park and the appeal site. The adjacent house, No.11, is situated on ground approximately 1.6m above the appeal site. The garden to No.11 falls sharply to the rear boundary with the field to the rear. Consequently, the front of the garage is slightly over the top of the timber fence along the retaining wall boundary with No.11 and to the rear the garage is approximately 3.2m above ground level with No.11. As a result I am satisfied that the garage is of modest height and scale and is not excessively overbearing when viewed from No.11. Accordingly, I am satisfied that the garage does not impinge on the residential amenities of neighbouring properties and that permission should be granted for this element of the development.
- 7.2.4. The appellant raises concerns regarding the ability of the applicant to finish the side wall of the garage along the boundary with their property, No.11. The ability of the applicant to render the wall appears to be restricted, as some of the work would need to be carried out from the appellant's property. The applicant has put forward a means of addressing this, involving the attachment of cladding to the wall. Other possible solutions to finish the side wall may be dependent on the appellant's consent to allow the applicant onto this property and this is not a matter for the planning process to resolve.
- 7.2.5. In conclusion, the balcony feature would not reflect or respect the character of the host development and, as such, would be contrary to policy UB-P-27 of the Development Plan and retention permission should be refused for this element of the development. The garage with omitted parapet wall, external stairs and roof terrace is of modest scale and height and would not detrimentally impact on the residential

amenities of the area. Accordingly, retention permission should be granted for this element of the development.

8.0 Appropriate Assessment

8.1. Having regard to the minor nature of the proposed development for retention, the proposed development and the location of the site in a serviced urban area and the separation distance 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.

9.0 Environmental Impact Assessment - Preliminary Examination

9.1. Having regard to the nature and scale of the proposed development for retention, the proposed development and the location of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10.0 Recommendation

I recommend that a split decision should be made, to:

(1) Grant retention permission for:

- a) a single-storey flat-roof detached garage with open fuel store to the side;
- b) landscaping, drainage and associated development works;

based on the reasons and considerations marked (1) under and subject to the conditions set out below (section 12.0), and

(2) Refuse permission for:

- a) retention of an extension to the rear comprising a projecting balcony space at first-floor level;
- b) proposed screen to rear wall;

based on the reasons and considerations marked (2) under (section 13.0).

11.0 Reasons and Considerations (1)

Having regard to the nature and scale of the garage to be retained, including the omitted parapet walls, external stairs and terrace, and the existing pattern of development in the vicinity, it is considered that subject to compliance with the conditions below, the garage would not be out of character with existing development within the area, would be acceptable in terms of visual impact and would not seriously injure the residential amenities of the area or of property in the vicinity. The proposed garage for retention would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The garage shall be retained 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 in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. 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 and to ensure a proper standard of development.

3. Site development and building works shall be carried out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400

hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

13.0 Reasons and Considerations (2)

1. Having regard to the design and proportions of the rear balcony feature proposed to be retained and the proposed screen to the north side, and the character of the host dwelling, it is considered that the balcony would fail to complement the character and appearance of the host dwelling, would seriously injure the visual amenities of the area and would be contrary to Policy UB-P-27 of the Donegal County Development Plan 2018-2024, which requires extensions to reflect and respect the scale and character of the host dwelling. The proposed retention of the balcony feature and proposed screen would, therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

19th December 2018