



An  
Bord  
Pleanála

## Inspector's Report ABP-306342-20

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<b>Development</b>	Change of use of dwelling to civil ceremony building, erection of a rear extension, demolition of front elevation and provision of new front elevation.
<b>Location</b>	Ballyliffin, Lifford PO. Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	1951572
<b>Applicant(s)</b>	Ballyliffin Lodge Spa / TA Night Light ACC.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Bernard Grant.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	11 <sup>th</sup> March 2020

**Inspector**

Sarah Lynch

## 1.0 Site Location and Description

- 1.1. The site is located on Shore Road, Ballyliffen. Co Donegal. It includes a small rectangular area to the front and a more elevated irregular shaped area to the rear. The area to the front accommodates a single-storey vacant dwelling with enclosed garden space to the front and the rear.
- 1.2. The house which is set back from the roadside has a pitched roof, two bay windows to the front and a small extension to the rear. It is adjoined to the north by a two-storey dwelling, which has a single storey dwelling flanking its northern gable, and associated outbuildings to the rear. To the south there are two parallel roadways, one providing access to a large dwelling house located on elevated ground to the rear and the other providing access to Ballyliffen Lodge Hotel.
- 1.3. The remainder of the site comprises part of the garden of the adjoining house to the rear. There are numerous residential properties in the vicinity and the Strand Hotel lies directly opposite the site on the other side of the road.

## 2.0 Proposed Development

- 2.1. It is proposed to retain the use of the dwelling as a wedding ceremony venue.

## 3.0 Planning Authority Decision

### 3.1. Decision

Donegal County Council determined to grant retention permission for the use.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The planner report was consistent with the decision of the planning authority.

#### 3.2.2. Other Technical Reports

- E.E Roads – No objections subject to conditions.

### 3.3. Prescribed Bodies

- None

### 3.4. Third Party Observations

One third party submission was received, the issues raised are set out in the grounds of appeal.

## 4.0 Planning History

- ABP 302949 – Permission was refused for the change of use of dwelling to a public house due to inefficiencies in the wastewater arrangements.
- ABP 247996 – permission was refused for the change of use of dwelling to a public house, due to inefficiencies in the wastewater arrangements.
- 17/51985 – Planning permission refused for the change of use of house to public house with connection to holding tank in lieu of wastewater treatment system on the grounds that the planning authority was not satisfied that the holding tank arrangement could be effectively managed without risk of odour or nuisance to third party property and the potential for adverse impacts on the SAC located within 0.73km of the site.

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the Donegal County Development Plan 2018-2024. The site is located within the settlement envelop of Ballyliffen (Map 15.12 refers).

Relevant policies to the consideration of the application include:

- Policy WES-P-11 – It is the policy of the Council to support and facilitate Irish Water to ensure that waste water generated is collected and discharged in a safe and sustainable manner that is consistent with the combined approach outlined in the latest Waste Water Discharge (Authorisation) Regulations and

with the objectives of the relevant River Basin Management Plan. It sets out the requirements for various forms of development in sewerred/ unsewered areas.

- Carparking standards are set out in Table 6 of Appendix 3 of the development plan
- Chapter 9 Tourism

## 5.2. **Natural Heritage Designations**

The nearest Natura 2000 sites to the appeal site are as follows:

- North Inishowen Coast SAC c. 906 metres north
- Trawbreaga Bay SPA c. 2.64km northeast.

## 5.3. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The grounds of appeal have been prepared by Canavan Associates on behalf of the owner of the adjacent property. The issues raised can be summarised as follows:

- The previous dwelling and outbuilding have been largely demolished.
- Development has been in use since November 2019.
- It is important to ascertain who the new owners of the property are.
- Plans submitted are not accurate.
- EHO and IW did not respond to application.

- Site is operating illegally without relevant certificates.
- Traffic and transport assessment should be submitted.
- No Appropriate Assessment screening or NIS has been submitted.
- Removal of bay windows is not appropriate.
- Pitch of house has been increased.
- Two new windows inserted into gable.
- Rear return has been demolished and new extension built.
- Stone wall demolished and rebuilt in block.
- Heat pump has been placed facing Mr. Grants property and is noisy, recording levels of 61 dB (A).
- Unauthorised works continued.
- Demolition of habitable house would have required planning permission.
- Concerns about works to the structure and stability of the neighbouring property due to excavation works on site.
- Light overflows to neighbouring property.
- Security camera give rise to privacy concerns.
- Outdoor speakers have been installed.
- Noise disturbance from crowds congregating outside property.
- Village sewerage facility is at capacity.
- Existing gully inadequate to cater for surface water.
- Development will result in a traffic hazard.
- Inadequate space to cater for guests.
- Proposal would set a precedent for commercialisation of dwellings.
- Conditions of use are proposed in the event that permission is granted.

## 6.2. Applicant Response

Hanley Planning Consultancy has prepared a response to the grounds of appeal on behalf of the applicant which can be summarised as follows:

- Site was previously a three bedroom dwelling.
- Site is associated with Ballyliffen Lodge and Spa.
- Change of use also relates to development works.
- The dual use of hotel's function room for ceremony and wedding dinner has proved problematic.
- Carparking is provided for within the hotel.
- Maximum no. of guests is 100, normally 50 attend.
- Ceremony and dispersal of guests lasts for 1 hour.
- Experience to date has shown 1 ceremony per month.
- Strict open hours were conditioned by planning authority.
- Previous refusals related solely to public health.
- The proposal enhances the tourism offer in Ballyliffen and is in accordance with the economic policies of the Development Plan.
- Proposal would have a substantially less of an impact on residential amenity than a public house.
- The L.A are satisfied that ownership has been established.
- Minor omissions were made on plans submitted.
- A contiguous elevation is not required.
- Building control, fire certification and DAC are not a matter for ABP.
- Appropriate Assessment screening was carried out at the time of a previous appeal and screened out.
- Heating/cooling fan has been moved to a location 18 metres from appellant's house.
- Burglar alarm has been fixed.

- An emergency WC has been provided; guests will be catered for within the adjoining hotel.
- Access to hotel is via a footpath.

### 6.3. **Planning Authority Response**

- Land ownership has been established.
- Site was deemed to be acceptable in that it is located in the centre of the village where there is little social infrastructure.
- The activity and residential amenity that may be generated by such a use is consistent with what could reasonably be expected in a village centre.
- Impact on residential amenity was not a reason for refusal of previous appeal pl.05E.247996.
- Suitable conditions have been applied to ensure residential amenity is maintained.
- Loadings on public system were considered in context of previous use as a dwelling.
- Limited scale of the development will give rise to limited traffic movements, existing public car parking can cater for users of site.
- Other matters have been addressed within the planner's report.

### 6.4. **Observations**

- None

## 7.0 **Assessment**

7.1. This is a third-party appeal against Donegal County Council's decision to grant permission for the change of use from dwelling to a civil ceremony building and alterations to building and construction of shed to rear. The development is located within the town of Ballyliffen. Under the core strategy it is identified as a Layer 2B - Strategic Town performing 'Special Economic Function' arising from its tourism



function and its location on the Wild Atlantic Way. The plan recognises the importance of rural towns and villages in supporting the wider rural community. The proposal is for a small civil ceremony facility associated with the adjoining hotel in the centre of the town and within the settlement envelop. It is important to note at the outset that the applicant omitted to include 2 gable windows and a door on the plans submitted with the planning application and has submitted plans clarifying the location of these features which accompany the response to the grounds of appeal. These plans have been reviewed in the context of this appeal.

7.2. I consider that the proposal which will add to the existing facilities available and support the tourism function of the town is acceptable in principle in this location. I note that the Board in its previous decisions raised no objection to the change of use to a public house, and I consider the proposed use to be similar in nature. The issues before the board can be summarised as follows:

- Impact on residential amenity
- Access & Car parking
- Public health
- Visual Impact
- Appropriate Assessment
- Other Matters

#### **Impact on residential amenity**

7.3. The appeal site is adjoined to the north by a two-storey residence and there are many other residential properties close by. Having regard to the proximity of the Strand Hotel and public car park immediately opposite the site and the Ballyliffen Lodge & Spa to the southwest, it is likely that there is already a degree of impact on the amenity of these residential properties. Both these premises hold weddings and other events which together with generated traffic would impact on the residential amenity of these dwellings.

7.4. The appellants have concerns regarding noise from outdoor music speakers, I consider that this matter can be addressed by conditions, should the Board be minded to grant permission for the development.

- 7.5. It is of note that the applicant has stated that the premise will only be used for a period of 1 hour on the day of a wedding. Prolonged noise disturbance will therefore not arise. I consider given the uses already present in the vicinity that noise generated from the site will not exceed that of a normal village centre location and as such will not affect residential amenity to such a degree as to warrant a refusal. Similar issues were raised in the previous appeal and I note that the Board did not consider this to be a reason for refusal.
- 7.6. The applicant also raised concerns in relation to the noise generated by the heating fan installed. The applicant has responded to these concerns stating that this fan has been removed and placed c. 18 metres from the appellants dwelling in order to appease the appellant in this regard. The relocation of the fan is considered to be acceptable.

### **Access and car parking**

- 7.7. Issues have been raised in the grounds of appeal regarding the lack of on-site carparking and adequate sight visibility splays at the site entrance. In response to these concerns the applicant has stated that car parking will be facilitated within the hotel grounds as guest will return to the hotel for the wedding dinner. Guests will walk from the hotel via a footpath to the appeal site. Only the wedding party will arrive at the appeal site by car.
- 7.8. Having regard to the limited scale of the development, its location within the town and the availability of parking, both on the roadside and on the opposite side of the road adjacent to the Strand Hotel, I do not consider that the lack of on-site car parking is likely to be so significant issue, to warrant refusal of permission.

### **Public Health**

- 7.9. It is contended by the applicant that there is inadequate capacity within the public sewerage system to cater for the proposed development. I note that the applicant has stated that there is one toilet provided within the outbuildings to the rear which is not used regularly as guests are accommodated within the hotel and are only present in the building for a limited period of time.
- 7.10. It is proposed to retain the connection of this toilet to the public sewer, given the nature of the use to be retained I consider the retention of this connection to be acceptable.

7.11. Concerns have also been raised by the appellant in relation to surface water attenuation. These matters can be adequately addressed by way of condition should the board be of a mind to grant permission.

### **Visual Impact**

7.12. It is contended by the appellant that the dwelling has been demolished and replaced and that a number of features have not been included within the plans submitted with the planning application. As mentioned above the applicant failed to include gable windows within the plans submitted and have submitted revised plans with the response to the grounds of appeal in order to clarify this issue. I have noted all alterations to the dwelling and construction of outbuildings inclusive of the increase in ridge height, the insertion of windows within the gables, replacement of boundary wall and removal of bay windows. Notwithstanding the alterations and extensions constructed, the building remains a single storey modest cottage style building and I consider the changes to the property and site to be acceptable in the context of the streetscape at this location.

7.13. It is important to note that the gable windows provide light to the building and do not facilitate any overlooking to the neighbouring property.

### **Appropriate Assessment**

7.14. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **Other Matters**

7.15. A number of matters have been raised in relation to building control, fire certification and disability access certification, these issues are not matters that the Board can adjudicate on. The appellant has also raised concerns in relation to landownership. This is largely a legal matter and is not one that the Board can finally determine. Section 34 (13) of the Planning and Development Act, states that the granting of permission does not entitle a person to carry out development and covers the eventuality that the development cannot be implemented for legal reasons.

7.16. Concerns have also been raised in relation to the unauthorised nature of the works and use, Section 34 (12) of the Planning and Development Act 2000, (as amended), provides the statutory provision to seek permission for the retention of unauthorised development.

## 8.0 Reasons and Considerations

8.1. Having regard to the provisions of the Donegal County Development Plan 2018-2024, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 9.0 Conditions

1. The development 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 and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health

3. The civil ceremony building permitted shall be used for the purpose of facilitating civil ceremonies only and shall be restricted to the ceremony only. The building shall not be used for any other use including recreational or social or otherwise.

**Reason:** In the interest of orderly development.

4. The civil ceremony building hereby permitted shall only be open for use between the hours of 09.30am – 8.00pm Monday to Friday and 09.30am – 9.00pm Saturday and Sunday.

**Reason:** In the interest of residential amenity.

5. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

6. External light shall be positioned so as to prevent direct overspill of light into neighbouring properties or the public road. Details are to be submitted for agreement to the planning authority within one month of the date of this permission.

**Reason:** In the interest of orderly development and residential amenity.

7. The sound levels from any loudspeaker announcements, music or other material projected in or from the premises shall be controlled so as to ensure the sound is not audible in adjoining premises or at two metres from the frontage.

**Reason:** In the interests of environmental amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of

payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Sarah Lynch  
Planning Inspector

18<sup>th</sup> March 2020