



An  
Bord  
Pleanála

## Inspector's Report 307459-20

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<b>Development</b>	2-storey extension to rear and single-storey extension to side of the existing dwelling & associated site development works
<b>Location</b>	No. 4 Ballindrait, Lifford, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	20/50209
<b>Applicant(s)</b>	Rebecca Doherty
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission subject to conditions
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant(s)</b>	Ronan Ferguson
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> September 2020
<b>Inspector</b>	Louise Treacy

## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 0.27 ha and is located on the north-eastern side of the settlement of Ballindrait, at No. 4 Ballindrait, Lifford, Co. Donegal. The existing property is a 2-storey, semi-detached dwelling with a stated floor area of 80 m<sup>2</sup>. The property has a small raised, rear garden area which accommodates a detached garage structure.
- 1.2. The site is bounded by agricultural lands to the rear/north, by an adjoining residential garden to the east, by an attached 2-storey dwelling to the west and an internal access road to the front/south, which terminates in a cul-de-sac directly to the front of the subject dwelling.
- 1.3. Buildings works were noted to be ongoing on the site at the time of the inspection, with the property being extended by way of a 2-storey, rear extension and associated internal and external alterations (see section 4.0: Planning History of this report below).

## **2.0 Proposed Development**

- 2.1. The proposed development comprises a 2-storey extension to the rear and a single-storey extension to the side of the existing dwelling house and associated site development works.
- 2.2. The extension has a stated floor area of 50 m<sup>2</sup> and will accommodate a kitchen/living room at the rear ground floor level and a utility room extension to the side. The proposed extension at 1<sup>st</sup> floor level will accommodate 1 no. double bedroom with en-suite and a study room.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Notification of the Decision to Grant Permission subject to 4 no. conditions issued on 4<sup>th</sup> June 2020.
- 3.1.2. Condition no. 4(a) requires that revised plans be submitted prior to the commencement of development, detailing the treatment and disposal of surface

water run-off from the proposed roof structure adjacent to the attached property, which avoids ingress to the neighbouring property.

3.1.3. All other conditions are standard in nature.

### 3.2. **Planning Authority Reports**

#### 3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

#### 3.2.3. **Other Technical Reports**

3.2.4. **Area Roads Engineer:** No objection subject to conditions.

3.2.5. **Housing Department:** No objection subject to conditions.

### 3.3. **Prescribed Bodies**

3.3.1. None.

### 3.4. **Third Party Observations**

3.4.1. 1 no. third party observation was received from Ronan Ferguson, The Cottage, Station Road, Ballindrait, Lifford, Co. Donegal, who has a legal interest in the adjacent, elevated private lands abutting the site.

3.4.2. The observation can be summarised as follows: (1) the submitted plans include lands that are not within the applicant's ownership; (2) no consultation with adjoining landowners'; (3) the submitted plans fail to protect the easement and right-of-support enjoyed by the owner of elevated lands abutting the site; (4) no satisfactory protections are provided regarding the existing retaining walls, fences and hedgerow of the neighbouring property; (5) overlooking from upper floor bedroom windows; (6) site notice located on private property/unreadable; (7) surface-water runoff.

## 4.0 **Planning History**

4.1. **Planning Authority Reg. Ref. 17/51047:** Planning permission granted on 17<sup>th</sup> August 2017 for: (1) a 2-storey extension to the rear of the existing dwelling and associated site development works; (2) retention of a detached domestic garage; (3) alteration and completion of works to the garage making provision for the proposed extension works to the dwelling house.

4.2. This planning permission was being implemented on the subject site at the time of the inspection. I note that the scale of the 2-storey extension permitted under this application, exceeds that for which permission is now sought.

## 5.0 Policy and Context

### 5.1. Donegal County Development Plan 2018-2024

### 5.2. Urban Housing

5.2.1. **Policy UB-P-27:** Proposals for an 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 amenities of adjoining properties.

### 5.3. Natural Heritage

5.3.1. The site is located in an Area of High Scenic Amenity. The development plan states that these areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.

5.3.2. **Policy NH-P-7:** Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies of this Plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.

### 5.4. Natural Heritage Designations

5.4.1. None.

## **6.0 The Appeal**

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

- 6.1.1. A third-party appeal has been lodged by Ronan Ferguson, the grounds of which can be summarised as follows: (1) incorrect development address; (2) no recent land survey undertaken of the property; (3) overlooking of the appellant's adjoining garden from the proposed side elevation; (4) the original plans for the dwelling did not provide for an enhanced, vehicular access to the site; (5) no conditions provided regarding right-of-support of the adjoining elevated plot.

### **6.2. Planning Authority Response**

- 6.2.1. A response was received from Donegal County Council on 4<sup>th</sup> August 2020.
- 6.2.2. The Planning Authority are satisfied that the applicant has a legal entitlement to the site and the making of this planning application. Issues in respect of distances to third party boundaries as raised by the appellant have been fully considered, with the provisions of S. 34 (13) of the Planning and Development Act, 2000 (as amended) noted.
- 6.2.3. The Planning Authority notes that the proposed extension is located approx. 30 m from the rear boundary of the adjacent third-party dwelling and do not consider that the side elevation windows would impact negatively on the private amenities of the appellant.
- 6.2.4. The Planning Authority also notes other procedural matters concerning the site address and the position of the site notice.

### **6.3. Observations**

- 6.3.1. None.

## 7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Procedural Matters
- Impact on Residential Amenity of Appellant's Property
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

### 7.3. **Procedural Matters**

7.3.1. The third-party appeal substantially relates to a number of procedural and legal matters concerning the proposed development, including inaccuracies in the site address, the absence of a recent land survey of the site and the absence of planning conditions to protect the right-of-support of the appellant's adjoining lands. In my opinion, these matters are not for the adjudication of An Bord Pleanála.

7.3.2. Notwithstanding the foregoing, I note that the planning application was accepted as valid by Donegal County Council, as reconfirmed by the Planning Authority in their submission on the appeal. I further note that the impact of any works on the shared property boundary or lands within the control of the appellant, is a legal matter which is not relevant to the assessment of this case. I also note the provisions of S. 34(13) of the Planning and Development Act, 2000 (as amended), which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

7.3.3. In conclusion, I consider that the procedural/legal matters which have been identified by the appellant, are not relevant to the assessment of this appeal case and can be dismissed.

### 7.4. **Impact on Residential Amenity of Appellant's Property**

7.4.1. The appellant submits that his adjoining rear garden will be overlooked by the windows in the side elevation of the proposed extension. The appellant submits that this issue could have been overcome, by placing the windows on the rear elevation of the extension.

- 7.4.2. In considering the foregoing, I note that the window which is proposed in the side elevation of the extension at 1<sup>st</sup> floor level serving bedroom no. 3, is orientated towards the appellant's rear garden, with a set-back of approx. 1 m arising to the shared property boundary. While the appellant's rear garden is extensive in length as noted by the Planning Authority, I consider that the proposed 1<sup>st</sup> floor level window would facilitate the overlooking of this neighbouring amenity space, albeit to a lesser extent than one serving a primary living space.
- 7.4.3. Given that the subject site is bounded by agricultural lands to the rear, I agree that the repositioning of this window onto the rear elevation at 1<sup>st</sup> floor level, would be appropriate in this instance and would eliminate the potential for direct overlooking, thus addressing the third party concerns. This amendment is not material in my opinion and can be addressed by way of condition in the event An Bord Pleanála grants planning permission in this instance.
- 7.4.4. The window which is proposed in the side elevation at ground floor level is intended to serve a utility room. I note that any potential overlooking from this window would be eliminated by the existing blockwork wall and attached timber fencing along the party boundary, which exceeds 2 m in height. As such, I am satisfied that no undue overlooking of the appellant's property could occur from the ground floor, side elevation of the proposed extension.

## 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

## 7.6. **Conclusion**

- 7.6.1. Having regard to the residential character of the site, and the extant planning permission for a 2-storey extension to the rear of the subject dwelling, the scale of which exceeds that for which permission is now sought, it is considered that the proposed development would be acceptable at this location, would improve the standard of the existing residential accommodation and have no undue negative

impact on the residential amenities of any neighbouring property. As such, I recommend that planning permission be granted.

## 8.0 Recommendation

8.1. I recommend that planning permission be granted subject to conditions.

## 9.0 Reasons and Considerations

9.1. Having regard to the nature and scale of the development for which permission is sought, and the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual 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.

## 10.0 Conditions

1.	<p>The development shall be carried out 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The 1<sup>st</sup> floor level window on the side elevation serving bedroom no. 3, shall be omitted and replaced by a window of the same dimensions on the rear elevation of the proposed extension.</p> <p><b>Reason:</b> To prevent overlooking of the adjoining residential property.</p>



3.	<p>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.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>

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Louise Treacy  
 Planning Inspector

23<sup>rd</sup> September 2020