



An
Bord
Pleanála

Inspector's Report

ABP-308364-20

Development	CHANGE OF HOUSE TYPE WITH DETACHED DOMESTIC GARAGE
Location	CALLAN, DRUMKEEN, LIFFORD PO, CO. DONEGAL
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	20/50997
Applicants	Patrick Gallagher and Sean Harkin
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellants	Patrick Gallagher and Sean Harkin
Observers	Damien and Caroline Kearns
Date of Site Inspection	15 th December 2020
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.252ha and is located in the townland of Callan, approx. 5km north of the town of Ballybofey/Stranorlar in County Donegal. The site is located circa. 130m east of the N13 National Primary Road, on a cul de sac roadway.
- 1.2. The site is effectively an infill site and is located between two existing two storey gabled and pitch roof design detached dwellings. The site rises gently from the front (south) to north and from the east to west and is surrounded by fragmented deciduous treelines and hedgerow along its front and rear boundaries. The western boundary of the site is comprised of hedging planted by the adjoining dwelling's occupants and the eastern boundary is currently open as the site does not encompass the entire field. A narrow strip of land exists between the site's eastern boundary and the western boundary of the dwelling house site to the immediate east. There is a partial boundary along the south eastern part of the site which is comprised of sparse deciduous trees.
- 1.3. The site is located in a rural area, comprised mainly of low-lying agricultural land. A linear strip of one-off dwelling houses is located to the west of the N13 and is visible from the site. The site is also visible from the N13 on approach from the north.

2.0 Proposed Development

- 2.1. The proposed development is to comprise:
 - Change of house type from permitted two storey pitched roof dwelling house of roof pitch 8.9m and floor area 119.51sq.m* as presented under granted planning permission P.A. Ref. 15/51067, to a two storey modern design flat roofed dwelling of roof height 6.2m with floor area of 176.96sq.m.
 - Proposed attached garage of 21.78sq.m, linked via car port. Previously permitted garage to be omitted.

* The Board should note that the figure of 119.51sq.m was the floor area stated in the application form for P.A. Ref. 15/51067, however, having inspected the plans it was noted that this figure is incorrect, as it only accounted for part of the development. The floors plans as presented on the Donegal County Council

Planning Enquiry System are currently illegible, therefore the definitive figure could not be found, however it is estimated that the floor area of the previously permitted dwelling house on the current site was over 200sq.m, similar to that of P.A. Ref. 08/60329 which is constructed east of the appeal site with a stated area of 243.10 sq.m.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason:

1. The subject site relates to a permission located in a Stronger Rural Area as defined under the Donegal County Development Plan, 2012-18 (as varied). It is a Policy of the Council to facilitate an individual in need of housing within an area defined as Stronger Rural Area, provided they demonstrate that they can comply with all other relevant policies of this Plan, including RH-P-1 and RH-P-2. Policy RH-P-2 of the 2012 plan states: *It is a policy of the Council to permit a new rural dwelling which meets a demonstrated rural need (see Policies RH-P-3–RH-P-6) provided the development is of an appropriate quality design, integrates successfully into the landscape, and does not cause a detrimental change to, or further erode the rural character of the area. In considering the acceptability of a proposal the Council will be guided by the following considerations:- ... 3. A proposed dwelling shall not result in a development which by its positioning, siting or location would be detrimental to the amenity of the area or of other rural dwellers or would constitute haphazard development;*

Having regard to the infill nature of the site including the established presence of two number gable end pitched roof dwellings adjoining same in this rural area, it is considered that the proposed dwelling by reason of urban design features, siting and fenestration arrangement does not integrate successfully into this landscape and would erode the rural character and private amenities as established by the adjacent developments. Accordingly, to permit the development as proposed would materially contravene the aforementioned

policies of the Plan and would therefore be contrary to the proper planning and sustainable development of the area.

Advice: Applicant is advised that any subsequent application for a change of house type should also demonstrate compliance with rural housing need as outlined in the conditions of the parent permission to which the application relates.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Area Planner's Report reflects the decision of the Planning Authority. The planner's report can be summarised as follows:

- The area planner notes the previous permission on site under P.A. Ref. 15/51067 which related to a gable end and pitched roof dwelling of similar design to the adjacent dwellings on either side of the proposed site. The area planner also notes the infill nature of the site and that the planner's assessment under P.A. Ref. 15/51067 had due regard as to the appropriateness of the design in this context.
- The area planner notes that the proposed dwelling, whilst occupying the same general footprint and position of the permitted dwelling, bears no relationship to the existing adjacent settlement pattern.
- While it was noted that the ridge level of the proposed dwelling has been reduced from that previously approved, the area planner notes that the proposed dwelling design still has to be considered in the context of the infill nature of the site and the surrounding development pattern.
- The proposed change of design is considered incongruous when compared with the established rural infill setting.
- The concerns in relation to overlooking, as raised in the third-party submissions, can be addressed by way of condition if required i.e. inserting obscure glazing or omitting such windows.

- No objection to the proposed garage in terms of location, sitting or visual amenity.
- The planning authority considered the notices issued were sufficient in terms of their description of the proposed development and that the submitted elevations and cross sections clearly show the finished floor levels proposed.

3.2.2. **Other Technical Reports**

- Area Engineer – no response received.

3.3. **Prescribed Bodies**

- Irish Water – no response received.
- Transport infrastructure Ireland (TII) – Response dated 21st August 2020 received late and was therefore not noted in Area Planners Report – the response stated that the proposal if approved would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage onto national roads. Section 2.5 of the DoECLG Spatial Planning Guidelines for Planning Authorities (January, 2012) states that the policy of the planning authority will be to avoid the creation of any additional access points from new development or the generation of increased traffic from existing accesses to national roads to which a speed limits greater than 60kph apply.

3.4. **Third Party Observations**

3.4.1. One third-party observation was received from Damien and Caroline Kearns, who are the residents of the property to the immediate east of the proposed site. The following concerns were raised as part of the submission:

- The validity of the site and newspaper notices associated with the application were queried.
- The observers claim that an inaccurate description of the proposed development was submitted, as it did not mention the re-orientation of the proposed dwelling or that the garage is to now be attached to the proposed dwelling.

- No levels have been indicated on the floor plans or site plan for the detached garage. The submitted plans imply the site is flat which it is not.
- Concerns expressed in relation to the design and potential for overlooking from the first floor east facing windows.
- Observers refer to Policy RH-P-2 and state that the proposed dwelling design does not take existing rural dwellings into consideration.
- Proposal does not comply with Policy RH-P-2 or the Best Practice as set out in Appendix B 'Building a House in Rural Donegal. A location siting design guide' of the Donegal County Development Plan 2018-2024.

4.0 Planning History

On site:

- P.A. Ref. 15/51067 – 2016 - Permission granted to Tina McConnell subject to 12 conditions for dwelling house, detached garage and septic tank/sewage treatment system.

Condition No.2 included an occupancy clause limiting the dwelling as the principle place of residence of the applicant or with written consent of the Planning Authority by persons who belong to the same category of housing need as the applicant.

- P.A. Ref. 11/60012 – 2011 – Permission granted to Tina McConnell for Extension of Duration for a further 5 years to extend previous approved permission for dwelling house, domestic garage and septic tanks (P.A. Ref. 06/60084).
- P.A. Ref. 06/60084 – 2006 – Permission granted to Tina McConnell for dwelling house, domestic garage and septic tank.

Adjoining sites:

- P.A. Ref. 08/60329 – 2008 – Permission granted to Caroline Tourish for 243sq.m dwelling house, domestic garage and wastewater treatment system.

5.0 Policy Context

5.1. National Guidance

Sustainable Rural Housing Guidelines

- 5.1.1. In assessing the design aspects of specific rural housing proposals, the following should be considered: the merits of each proposal, taking on board the degree to which a site is sensitive in visual and other terms, the character of surrounding development and the wider area and the need to encourage innovation in design and construction techniques, while avoiding an overly prescriptive approach.
- 5.1.2. The siting and design of new dwellings should take account of and integrate appropriately with its physical surroundings.

5.2. Development Plan

- 5.2.1. The site is governed by the policies and provisions contained in the Donegal County Development Plan 2018 to 2024.
- 5.2.2. The site is located in an area defined as a 'Stronger Rural Area'. In accordance with the provisions of the Plan, one-off rural generated housing will be facilitated in these areas subject to compliance with all relevant policies and provisions of the Plan (Policy RH-P-3 Stronger Rural Areas).
- 5.2.3. **Policy RH-P-3** requires applicants to demonstrate rural housing need while also complying with all the other relevant policies of the plan. All proposals for rural housing are subject to the requirements of Policy RH-P-1 and RH-P-2.
- 5.2.4. **Policy RH-P-1** states that it is a requirement that development be subject to best practice in relation to siting, location and design as set out in Appendix 4. It is also a requirement that the house be sited and designed in a manner that enables it to be assimilated into the landscape and that it is sensitive to the integrity and character of the rural area as identified in Chapter 7 and Map 7.1.1. The policy also states that in the event of a grant of permission the Council will attach an Occupancy condition which may require the completion of a legal agreement under S47 of the Planning and Development Act 2000 (as amended).

- 5.2.5. **Policy RH-P-2** facilitates proposals for rural housing where there is a demonstrated need, provided it is of an appropriate design quality, integrates successfully into the landscape and does not cause a detrimental change to, or, further erode the rural character of the area.
- 5.2.6. **RH-P-9: Design** seeks the highest standards of siting and architectural design for all new dwellings constructed within rural areas and requires that all new rural dwellings are designed in accordance with the principles set out in Appendix 4 of the County Development Plan, entitled ‘Building a House in Rural Donegal – A Location, Siting and Design Guide’
- 5.2.7. **Policy NH-P-13** - proposal must be considered in the context of the landscape classifications, and views and prospects contained within this Plan and as illustrated on Map 7.1.1: ‘Scenic Amenity’.
- 5.2.8. The site is located in an area designated Moderate Scenic Amenity (MSA) as defined under Map 7.1.1 Scenic Amenity under the Donegal County Development 2018-2024. The development plan states that these areas have the capacity to absorb additional development that is suitably located, sited and designed subject to compliance with all other objectives and policies of the Plan.
- 5.2.9. **Part B: Appendix 4 Building a House in Rural Donegal – A Location Siting and Design Guide**

The guide advocates an integrated approach to the design of a dwelling in the countryside considering the three key elements of Location, Siting and Design.

In summary a house in the countryside should;

- Integrate satisfactorily within the landscape.
- Reflect its location and contribute satisfactorily to the character of the area, expressing local influences and materials appropriate to the rural area.
- Be well designed informed primarily by site specifics.

5.3. **Natural Heritage Designations**

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal, as raised in the submission from Bond Architects, on behalf of the first party appellants and can be summarised as follows:

- The refusal reason refers to the positioning, siting and location of a development, however as a previous dwelling house was granted on the same site the applicant therefore believes that the above criterion are not an issue in the current application, which is for a previously approved house type and garage.
- Only minor changes are proposed to the footprint of the development, which has been reduced in size from the original and the position of the building on site has changed slightly. These will have no material planning impact.
- The applicants states that a Section 47 Notice was included in the application and that the change of house type submission would in fact be bound by the conditions laid out in the parent permission and that this should not have to be reinstated.
- The applicants present an example of a similarly designed two storey flat roofed dwelling house which was granted under appeal to the Board in the Letterkenny area (ABP. Ref. 247155) and another three examples of dwelling houses of similar design which were granted permission by Donegal County Council (P.A. Ref. 15/50043, 18/51461 and 20/50020).
- The applicants argue that the above permitted examples can be clearly seen from at least a kilometre away from their respective sites, whereas the current appeal site can only really been seen from the private laneway. The views of the appeal site from the main road are limited and screened by the mature trees when approaching from both directions on the N13.
- The separation distance of 25m between proposed dwelling and the adjacent houses is considered adequate, however the applicants have stated that they are willing to include additional ways of mitigating any perceived overlooking if required.

- The applicants question how the proposal would erode the rural character of the area, when considered against the already approved design it is replacing.
- The applicants state that the proposed garage is technically detached but if the Board highlight the design as an issue, they would be prepared to omit this feature. They sought to locate the garage to the rear of the dwelling to reflect the arrangement of the adjacent dwellings to the east and west.
- The previous house design approved on site under P.A. Ref. 15/51067 does not meet the needs of the current applicants.
- Sensitive regard was had to the considerations listed under Policy RH-P-2 of the Development Plan and the design is simple in both its form and massing and not as high or dominant in the landscape as that which was previously permitted on site.

6.2. Planning Authority Response

6.2.1. A response from Donegal County Council was received by the Board on the 09th November 2020, which addressed the issues raised in first party appeal. The response can be summarised as follows:

- The principle of a dwelling has been established on site. The current applicants differ to the original applicant, and the planning authority attached an advisory note that any subsequent application should also attach documentation demonstrating compliance with the rural housing need as detailed in the conditions of the parent permission. The planning authority stated that no refusal was considered or otherwise issued on this basis.
- The planning authority note the other examples cited by the appellants, however they state that these other permitted dwelling houses are located in a completely different context to that of the current site and as such form no basis for consideration of or comparison with the current site.
- The planning authority have submitted location maps, which show that the majority of the locations of the cited applications are in fact located in suburban settings, whereas the current application is in a rural area.

- The planning authority in assessing the application had due regard to the overall context of the proposed design based on the infill nature of the site and to the adjacent developments, including third party amenities within the rural context of the site.
- The submitted design failed to demonstrate due regard was had to the rural setting of the site, on low lying landscape, visible from the public road and within the context of the established pattern of development and the associated amenities of surrounding dwellings.

6.3. Observations

6.3.1. One observation was received from Damian and Caroline Kearns, the residents of the property to the immediate east of the appeal site. The observers reiterated the main points made as part of the original submission on the planning application. The additional issues raised by observers can be summarised as follows:

- The garage should not be considered within the exemptions of planning.
- The 3 no. first floor windows on the eastern elevation overlook the observers' property and infringe on their privacy, in addition they offer no solar gain benefits orientated in this way.
- The proposed development will not improve the housing stock of the area in any way.
- The observers question the reasoning behind the proposed flat roofed structure and the reasoning presented on energy efficiency, thermal standards etc.
- The examples presented by the appellants are located in very different locations than that of the proposed development and do not reflect the rural nature of the appeal site.
- The land on site is not flat, as implied by the applicants' agent, and in fact rises by approximately 1.25m from the eastern boundary and continues to rise towards the opposite boundary of the site.

- A flat roofed structure located between two pitched roof gable ended dwellings will not integrate into the established pattern of development or landscape and will have a detrimental impact on the rural character of the area and does not comply with policy RH-P-2 or the best practice guidance ass set out in Appendix B of the plan.

7.0 Assessment

- 7.1. The application presented to the Board relates to a change of house type only. The principle of a dwelling house and associated infrastructure at this location has previously been assessed and determined to be in accordance with proper planning and development. In addition, the revised design provides for three bedrooms only, which is a reduction on the original proposal and therefore there is no increase in population equivalent in terms of the capacity of the permitted wastewater treatment system to accommodate the development in accordance with the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009). As no further loading in relation to wastewater treatment is proposed, a repeat assessment is therefore not required.
- 7.2. In addition, while I note the submission received from the TII and their concerns with regard to the generation of increased traffic from the proposed development and access on to the N13. I consider that sufficient evidence of appropriate sightlines has been presented as part of the original application on site under P.A. Ref. 15/51067. The situation with regard the principle of the development on site has not changed, therefore it is not considered that a change of house design would merit any further examination of this issue.
- 7.3. Having examined the file and the planning history, considered national and local policies and guidance and inspected the site, I consider the main issues which need to be examined in relation to the proposed development are as follows:
- Change of House Type – Proposed Design and Impact on Rural Setting
 - Impact on Residential Amenities' of adjoining properties
 - Demonstration of Rural Housing Need
 - Appropriate Assessment

7.4. Change of House Type - Proposed Design and Impact on Rural Setting

- 7.4.1. The applicants propose to construct a two-storey flat roofed dwelling which will occupy the same general footprint of the dwelling house approved under the previous permission (P.A. Ref. 15/51067).
- 7.4.2. The Board should note that the original permission was assessed by the planning authority under the Policy RH-P-2 of the previous Donegal County Development Plan 2012-2018 and the refusal reason related to same. However, that plan has since expired and is not relevant to the current change of house application which should be assessed under the current development plan and its relevant policies, which are referred to under Section 5.2 above.
- 7.4.3. Policy RH-P-1 of the current development plan states that proposals for individual dwellings shall be subject to the application of best practice in relation to the siting, location and design of rural housing as set out in Appendix 4 of the development plan and shall comply with Policy RH-P-2. The appeal statement submitted states that as part of the design process, some care was taken to change as few elements as possible from the original approved site planning for the scheme. While I note that the size (floor area) and height of the proposed dwelling have been reduced, the proposed design is entirely different to that which was previously proposed and bares no resemblance to the original permitted plans or those of the dwellings to the immediate east and west of the site, which are comprised of a more traditional design, with features such as gable ended pitched roofs and vertical emphasis windows.
- 7.4.4. Policy RH-P-9 of the current development plan requires that all new rural dwellings are designed in accordance with the principles set out in Appendix 4 of the County Development Plan, entitled 'Building a House in Rural Donegal – A Location, Siting and Design Guide'. Section 4.6 of this Guide states that new dwellings in the countryside should respect the rural context, and contemporary design solutions should demonstrate an informed use of traditional reference. The applicants state that the proposed materials and also the narrow form of the proposed structure, with its vertical gable influence and simple lime-based render walls make reference to traditional Irish rural buildings. It is my view that the design presented does little to reflect the design of traditional rural structures and even though the dwelling

proposes a reduced scale when compared to that previously permitted, it would in fact, in my opinion have more of an impact on the rural setting of the area by virtue of its blocky form and lack of more traditional component parts and proportions.

- 7.4.5. While I note the applicants reference to examples of other contemporary dwellings which have been permitted and photos of same submitted with the appeal, these dwellings are located in significantly different locations, with the majority either within well-established housing clusters, on the periphery of urban areas or having the advantage of established mature landscaping and screening. The current proposal does not reflect its location nor contribute satisfactorily to the pattern or character of development in the area, nor express local influences or materials appropriate to the rural area as set out in the Design Guide.
- 7.4.6. On site visit, I noted the visibility of the site and the view of the site on approach from the N13, which is located approximately 130m to the site's west. Although some screening is present to the rear of the proposed site, this is comprised mainly of sparse deciduous trees which do little to conceal the development in the winter months. In addition, given the mainly flat low-lying topography of the landscape in which the site is located and the fact that the N13 rises to the north, clear views of the site are available.
- 7.4.7. In conclusion, I am not satisfied that the design and layout of the current proposal is appropriate in this rural location and I believe that it would fail to be adequately absorbed and integrated into the landscape, and would militate against the preservation of the rural environment. The proposed change of design is also considered incongruous when compared with the established rural infill setting.

7.5. Impact on Residential Amenities' of adjoining properties

- 7.5.1. The proposed dwelling house is to be located approximately 4m closer to the eastern boundary of the site than that of the previously approved dwelling. The residents of the neighbouring property to the immediate east of the appeal site have made a submission outlining their concerns regarding the potential for overlooking from the first storey side (eastern elevation) windows of the proposed house.
- 7.5.2. Two of the proposed windows on the eastern elevation provide light to non-habitable rooms which include the ensuite and the dressing room area of the master bedroom. It is not considered that transparent glazing is necessary for these windows and I

would suggest that if the Board are minded to grant permission, these windows could be conditioned if required to include obscured glazing. An additional window is also located in the master bedroom on the eastern elevational wall of the dwelling, again this could be omitted by way of condition as there is already sufficient glazing on the northern façade which also provides lighting to this room.

- 7.5.3. The two windows located at first floor level on the western elevation provide light to the hallway and the vaulted ground floor room which is comprised of a double height space. These windows are not expected to generate any significant levels of overlooking which may lead to any negative impacts on the existing dwelling to the west.
- 7.5.4. I have no objection to the location of the proposed garage and the single storey carport link to the main dwelling.

7.6. Demonstration of Rural Housing Need

- 7.6.1. I note the planning authority have raised the issue of compliance with rural housing need and have attached an advisory note under the stated refusal reason on the Notification of Decision to Refuse. However, the planning authority have stated that no refusal was considered or otherwise issued on the basis of housing need.
- 7.6.2. The Board should note that current applicants differ from the original applicant. The current applicants have stated in their appeal that a signed Section 47 agreement was included with the current application, which in accordance with sub paragraph (i) (a) of Condition No.2 of P.A. Ref. 15/51067 (the original permission) would permit use by the applicants of the dwelling as their principal place of residence. I note from an examination of the documents on file on the planning authority's planning enquiry system in relation to P.A. Ref. 15/51067, that the planning authority were prepared to give consent subject to the compliance with the requirements as to entry into Section 47 Agreement under the relevant condition. However, I could find no record of a fully completed Section 47 agreement, nor has evidence of same been attached to the current application on file as part of the current appeal. Insufficient information would therefore appear to have been submitted in order to allow the applicants to comply with Condition No.2 (i)(a) of the original permission. This is a matter for which the Board may wish to seek further views or information from the relevant parties.

However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.7. **Appropriate Assessment**

- 7.7.1. Having regard to the nature and scale of the development, 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.

8.0 **Recommendation**

- 8.1. It is recommended that permission for the proposed development be **refused** for the reasons and considerations set out hereunder.

9.0 **Reasons and Considerations**

It is considered that the proposed change of house type, due to its design form, bulk and proportions, would not be capable of effective assimilation in the rural landscape in this infill location. It is considered that the proposed development would further erode the rural character of the area and would be out of character with the scale, form and character of more traditionally designed housing in the locality and in particular the predominantly gable ended pitched roof design of the adjacent dwellings. The proposed development would therefore be in conflict with Policy RH-P-1, Policy RH-P-2 and Policy RH-P-9 and in particular the best practice guidance contained in Appendix 4 of the Donegal County Development Plan 2018-2022. It is considered that the proposed development would create a precedent for similar type development which would seriously injure the amenities of the area and therefore, be contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

06th January 2021