



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309250-21

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<b>Development</b>	Erection of a machinery storage shed and all associated site works.
<b>Location</b>	Carrick, Derrybeg, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	20/51022
<b>Applicant(s)</b>	Derek McFadden
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party vs. Grant
<b>Appellant(s)</b>	Mairéad Harkin
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24th March 2021
<b>Inspector</b>	Stephen Ward

## **1.0 Site Location and Description**

- 1.1. The site is located in the townland of Carrick, at a distance of c.3 km north of the settlement of Derrybeg and 1.5km from the northwest coast of County Donegal. Access is provided via a narrow private lane which runs off the R257 Regional Road approximately 70 metres to the east of the site. The lane serves five other residential properties, including the existing property on the site.
- 1.2. The site is relatively flat and contains a vacant dwelling and domestic garage at its northern end. There are existing dwellings to the immediate east and west, as well as another dwelling distanced c. 50 metres to the south. The land to the immediate north of the laneway is currently undeveloped. There is no defined boundary along the laneway to the north or along the southern site boundary. A mature hedgerow runs along the western site boundary and there is a low block wall along the eastern boundary.
- 1.3. The wider surrounding area is of high scenic value with extensive views of the coastline to the west. The site itself is within a low-lying area relative to rising land to the east and west. The pattern of development is characterised by widespread one-off housing in various patterns and concentrations.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the construction of a machinery storage shed at the southern end of the site with a total floor area of 176m<sup>2</sup> and a height of c. 5 metres. The shed incorporates a large sliding door on the front (northern) elevation. Unsolicited information was submitted on behalf of the applicant on 5<sup>th</sup> November 2020 to outline that the shed is required as a secure and weather-proof store for equipment associated with the applicant's business and agricultural activities. It is stated that the equipment/machinery will include a tractor, tipping trailer, link box, 3 tonne digger, low loader, hand tools, compressors, and maintenance tools.
- 2.2. A new gravel hardstand and access road will link to the existing lane at the northern end of the site. Water will be connected from the existing dwelling on site and surface water will be diverted to an existing land drain.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 18<sup>th</sup> December 2020, Donegal County Council (DCC) issued notification of the decision to grant permission, subject to conditions. The notable conditions of the decision can be summarised as follows:

**Condition no. 3** requires the shed to be used solely for the storage of vehicles and equipment.

**Condition no. 4** states that, prior to commencement of development, the existing laneway shall be surveyed and proposals for upgrading to a suitable standard shall be submitted for the written agreement of the planning authority.

**Condition no. 5** states that, prior to use of the shed, the laneway shall be upgraded in accordance with details agreed under condition no. 4.

**Condition no. 6** requires that the digger to be stored shall be transported at all times via a low loader.

### 3.2. Planning Authority Reports

The DCC Planner's Report can be summarised as follows:

- In response to third-party submissions, it is stated that:
  - Increased traffic is acceptable given its nature and association with rural activity and the existing dwelling, and subject to conditions relating to the use / upgrade of the existing lane.
  - The shed will read with the existing cluster of development and will not encroach / impact on existing wastewater treatment systems.
  - This is not a commercial proposal and there is sufficient space for vehicle circulation.
  - The site can accommodate the development and will provide ample distance from any third parties.

- The principle of the development is appropriate within a rural environment and within the curtilage of a dwelling owned by the applicant.
- Ample space has been left to upgrade foul effluent arrangements for the existing house on site if required in the future.
- Having regard to the distance from the Gweedore Bay and Islands SAC it is considered that screening for AA is not required.
- A grant of permission is recommended, subject to the conditions outlined in the DCC notification of decision.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

Four third-party submissions were received by the planning authority. The issues raised can be summarised as follows:

- There are concerns about overdevelopment of the area.
- There are 4 properties connected to one septic tank.
- Vision lines at the main road are insufficient.
- Questions are raised about the rationale for the shed and the suitability of the access for heavy plant and vehicles.

## 4.0 Planning History

**P.A. Ref. 13/50706:** On a site which included part of the appeal site and two adjoining dwellings to the east, retention permission was granted (14/8/13) for existing dwelling house slightly repositioned to the south from previously granted under ref no: 03/3015 and for existing domestic shed located to the rear of the house and permission was granted to relocate septic tank system and percolation area to serve the dwelling house. Conditions were attached requiring no further development on the appeal site, which would have hosted the relocated percolation area.

However, it would appear that this permission was not implemented and was effectively superseded by the following permission.

**P.A. Ref. 15/50629:** On the adjoining site to the east, permission granted (4/8/15) for upgrading of septic tank wastewater treatment arrangements by (1) decommission of existing septic tank (2) connection of dwelling house into an existing communal septic tank and (3) construction of a new intermitted filter and soil polishing percolation area.

## 5.0 Policy Context

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

5.1.1. Bunbeg-Derrybeg is identified in the Plan as a Layer 2B Strategic Town due to its special economic function and Part C of the Development Plan outlines that Settlement Frameworks have been prepared for such settlements. These aim to manage the overall pattern and type of development by identifying settlement envelopes, town centre boundaries and zoned land for various purposes. The appeal site is located outside the defined 'Settlement Framework Boundary' for Bunbeg-Derrybeg.

5.1.2. Chapter 4 of the Plan deals with Economic Development and includes the following policies and objectives (as summarised):

**ED-O-5:** Promote appropriate rural economic development by encouraging diversification that supports the growth of emerging rural enterprises functionally related to the countryside.

**ED-P-5 (c):** Proposals for warehouse/storage use will not normally be approved outside the settlement boundary unless related directly to a site specific product resource or a project under the terms of any of the Policies ED-P-8 to ED-P-13.

**ED-P-8:** Consider proposals for economic development uses in the countryside including An Gaeltacht which comply with the following provisions, subject to compliance with Policy ED-P-14 and the protection of areas designated as being of Especially High Scenic Amenity (EHSA):

- Farm Diversification schemes – provisions set out in Policy ED-P-9.
- Expansion or redevelopment of an existing economic development use provisions set out in Policy ED-P-10.
- Major industrial Development – provisions set out in Policy ED-P-11.
- Businesses in rural areas that could benefit the local economy/tourism offering and Home Based Working – provisions set out in Policy ED-P-13.

All other proposals for economic development in the countryside will only be permitted in exceptional circumstances where the proposal comprises a development of regional or national significance and no suitable site exists within a settlement in the locality which can accommodate the proposal (Policy ED-P-12 refers).

**ED-P-14:** Sets out general assessment criteria for economic development proposals.

- 5.1.3. In terms of landscape character, the county has been categorised into three layers of landscape value (Especially High Scenic Amenity', 'High Scenic Amenity' and 'Moderate Scenic Amenity'), which are illustrated on Map 7.1.1 of the Plan. The subject site is within an area classified as 'High Scenic Amenity', which are described as landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. 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.
- 5.1.4. Policy NH-P-7 seeks to facilitate development in areas of 'High Scenic Amenity' of nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.

## 5.2. **Natural Heritage Designations**

The site is located approximately 700 metres east of the West Donegal Coast SPA and the Gweedore Bay and Islands SAC.

## **6.0 The Appeal**

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

The decision of DCC to grant permission has been appealed by Mairéad Harkin of Carrick McCafferty, Derrybeg. The grounds of appeal can be summarised as follows:

- The access is a shared right of way by three families, not a private laneway, and the applicant does not have legal share to this right of way.
- The applicant does not have the legal consent to upgrade or improve this right of way.
- The laneway was built in the 1960's to cater for light traffic. It is not suitable for heavy plant and machinery and it would cause damage to existing buildings and walls.
- Adequate vision lines cannot be achieved at the entrance onto the R257 and the development would create a traffic hazard and endanger public safety.

### **6.2. Applicant Response**

The applicant's response to the appeal can be summarised as follows:

- It is estimated that the heaviest loading on the access road through the combined use of a tractor, low-loader and digger would be 8170 kgs. It is contended that the current road condition has the capacity to accommodate this load and that this can be clarified by condition. The vehicles are already using this route and no damage has been caused.
- The applicant will comply with the terms of condition no. 6.
- The Right of Way has been in place since the 1960's and runs over three folios to reach the appeal site, one of which is registered to the applicant's wife. Applications have been made to correctly register the Right of Way over the other two folios, neither of which is registered to the appellant.
- The appellant cannot give consent for any part of the Right of Way and has not clarified if she is acting on behalf of any other interested parties.

- The appellant has not clarified the basis for concerns about the structural capacity of the road. It is contended that heavier vehicles would have used the road on a consistent basis over the years.
- The storage of equipment and vehicles will continue at this location whether or not the construction of the shed proceeds. Traffic volumes and safety will not therefore be affected by the proposed development.
- The site is located within a 'structurally weak rural area', which does not restrict the construction of a shed for the storage of machinery.
- The proposed shed will not have any negative impacts on surrounding residents.

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

The response of the planning authority to the appeal can be summarised as follows:

- Concerns raised regarding the legal right to use the laneway are not material as no supporting information was submitted.
- Condition no.'s 4, 5, and 6 of the decision would ensure that the laneway would be upgraded to an appropriate standard.

### **6.4. Observations**

None.

## **7.0 Assessment**

- 7.1. While the appeal refers to condition no.'s 4 and 6 of the decision, I consider that it also outlines a fundamental objection to the proposed development. In any case, and notwithstanding the discretions available to the Board under section 139 of the Planning and Development Act 2000 (as amended), I consider that the determination of the application as if it had been made to the Board in the first instance is warranted in this case.

7.2. Having regard to the documentation submitted in connection with the application and the appeal, and having inspected the site, I consider that the main issues for assessment are as follows:

- The principle of the development
- Visual Amenity
- Residential Amenity
- Access and Traffic

### 7.3. **The principle of the development**

- 7.3.1. With regard to the nature and rationale for the proposed shed, I note that the applicant's response to the appeal refers to the need to facilitate agricultural equipment and activities. The extent of the applicant's agricultural activity has not been clarified however, and the limited extent of the landholding at this location would clearly not support any significant agricultural use. No evidence has been submitted regarding any additional landholding in the area and much of the equipment / plant referred to would not be exclusively related to agriculture.
- 7.3.2. The response also highlights the need for storage connected to the applicant's plumbing business. In this regard I note that policy ED-P-5 (c) of the CDP generally discourages storage uses at locations like this outside the settlement boundary, unless it is directly related to a site-specific product or a project under the terms of policies ED-P-8 to ED-P-13. I would acknowledge that policy ED-P-5 may be more applicable to larger scale proposals involving product storage rather than the nature of the proposed development. However, the policy does provide an instructive context for the consideration of the appeal.
- 7.3.3. Policy ED-P-8 deals more generally with economic development proposals in the countryside and outlines that proposals will only be permitted in specified exceptional circumstances. Having reviewed the information submitted, I do not consider that any evidence has been provided to warrant consideration under the exceptions outlined in policies ED-P-5 or ED-P-8.
- 7.3.4. Having regard to the above, I do not consider that a clear rationale has been established for this development in a rural area. The agricultural element of the

development is not supported by evidence of a viable agricultural landholding and the commercial element would not be considered suitable in a rural area outside the 'Settlement Framework Boundary' for Bunbeg-Derrybeg.

- 7.3.5. While I acknowledge that it would not be uncommon to facilitate some extent of additional equipment/vehicle storage within the curtilage of a house, I consider that the scale of the proposed building exceeds that which would normally be considered acceptable in such circumstances. Furthermore, the appeal site is not within or directly accessible to the applicant's dwelling, which is located c.60 metres to the east. I do not consider that the existence of a vacant dwelling on the appeal site justifies the accommodation of the proposal at this location. The proposed development effectively constitutes a standalone haphazard development that is not locationally fixed to a particular purpose or resource and, accordingly, the storage requirements in question would be more appropriately accommodated on an agricultural holding (for the agricultural plant/vehicles) or within the 'Settlement Framework Boundary' (for the plumbing business storage needs).

#### **7.4. Visual Amenity**

- 7.4.1. I acknowledge the location of the site within an area of 'High Scenic Value', and that the CDP outlines the capacity of these areas to absorb development that assimilates into the receiving landscape without detracting from its quality. While the wider surrounding area hosts extensive views of the coastline, it should be noted that the proposed shed is to be located on a relatively low-lying infill site within an existing concentration of dwellings. Accordingly, I do not consider that it would seriously detract from any significant public views or prospects.
- 7.4.2. However, having regard to the context of the site within an existing cluster of rural dwellings, I am not satisfied that the location, siting and design of the proposed building successfully assimilates with existing development. The siting would cluster more effectively if the building was moved further north. However, it would appear that the proposed position was selected in order to increase separation from adjoining dwellings and to accommodate a potential wastewater treatment system to serve the existing vacant dwelling on site.

- 7.4.3. I would also have concerns about the design and character of the proposed building. And while I am conscious that it would not be dissimilar to an agricultural shed that could be accommodated on a suitable agricultural holding, I consider that it would form an incongruous feature within this rural residential cluster and would be out of character with existing development.

## **7.5. Residential Amenity**

- 7.5.1. The proposed building is intended for storage purposes only and it would appear that no processing or other activity is proposed therein. Apart from a likely short construction phase, I consider that any disturbance activities associated with the development would be limited to the traffic movements to and from the site. While traffic safety issues are addressed separately in section 7.6 below, I consider that the traffic movements are not likely to detract from residential amenity by reason of noise or other nuisances.
- 7.5.2. With regard to the proposed building itself, I have previously outlined concerns about visual integration with the surrounding dwellings. And while I do not consider that the building would be of such a scale and proximity that would cause excessive overlooking, overshadowing or overbearing impacts, I would nonetheless have concerns about the suitability of the proposed agricultural / commercial use and its relationship with surrounding dwellings. In particular, the proposed building would be prominent when viewed from the front of the adjoining dwelling to the east and there is no screening of significance between these properties.

## **7.6 Access and Traffic**

- 7.6.1. Access to the site is proposed via the existing lane to the north, which the applicant indicates as a 'right of way'. However, the appellant contends that the access is a right of way shared by three families and that the applicant does not have 'legal share' or the legal consent to upgrade this right of way as required by the conditions of the DCC decision. No evidence has been submitted from either party to conclusively substantiate claims regarding the existence and/or limitations of the right of way. I would consider this to be a matter for resolution between the parties, having regard to the provisions of section 34(13) of the Planning and Development

Act 2000 (as amended), which clarifies that a person shall not be entitled solely by reason of planning permission to carry out any development.

- 7.6.2. The appellant also claims that the access lane is unsuitable to cater for heavy machinery and that adequate sight distances cannot be achieved at the junction with the adjoining Regional Road. An 80kph speed limit applies at this location and I note that 'Table 3 Appendix 3' of the CDP requires vision lines of 160 metres for 85kph zones and 120 metres for 70kph zones.
- 7.6.3. Upon inspection of the site I noted that the access lane is extremely limited in width and that there is only a short footpath setback along the adjoining Regional Road either side of the lane entrance. I would estimate that maximum achievable vision lines onto the Regional Road would be c.50 metres in a northwest direction and c.40 metres to the southeast. Furthermore, it should be noted that these vision lines cross private properties which do not appear to be within the ownership or control of the applicant. Therefore, the applicant has not demonstrated that even these limited vision lines can be suitably maintained.
- 7.6.4. Having regard to the above, I consider that access is proposed via a substandard private laneway junction which already serves 5 properties, and that the proposal to intensify the use of this access is inappropriate, particularly in light of the significant scale of the vehicles involved. I consider that, in light of the inadequate width, alignment and vision lines available at this junction, the traffic turning movements involved would interfere with the safety and free flow of traffic and would endanger public safety. On the basis of this substantive concern, I do not propose to further investigate issues raised relating to the structural capacity of the laneway etc.
- 7.6.5. I note the applicant's argument that the vehicles are already stored at this location and that the proposed development would not result in increased traffic movements. At the time of my site inspection I can confirm that none of the vehicles or equipment referred to in the application were stored on the site. In any case, I consider that the proposed shed would provide a significantly increased storage capacity for agricultural and commercial equipment and would be likely to generate increased traffic movements at this substandard junction.

## 7.7. Conclusion

In conclusion, I consider that a suitable rationale has not been established for the accommodation of either an agricultural or commercial storage facility at this location and that the proposed development would constitute haphazard disorderly development in a rural area which fails to successfully integrate with surrounding residential properties. The Board may wish to consider this a 'new issue' and proceed to seek the views of other parties in accordance with s.137 of the Act. However, having regard to the other substantive reason for refusal on grounds of traffic hazard, it may not be considered necessary to pursue the matter.

## 8.0 Appropriate Assessment

Having regard to the nature and limited scale of the proposed works, and the separation distance between the appeal site and the nearest European Site, it is considered that the proposed development, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

## 9.0 Recommendation

I recommend that planning permission should be refused for the reasons and considerations outlined below.

## 10.0 Reasons and Considerations

1. Having regard to the relationship between the site and the applicant's adjoining lands, which do not support agricultural use to any significant extent, and to the location of the site outside the 'Settlement Framework Boundary' for Bunbeg-Derrybeg and the provisions of policies ED-P-5(c) and ED-P-8 of the County Donegal Development Plan 2018-2024, which discourage commercial uses, including storage uses, in the countryside outside defined settlement boundaries, it is considered that agricultural or commercial storage

uses are not justified at this rural location and that the proposed development would constitute haphazard disorderly development. Furthermore, by reason of its agricultural / commercial nature and its inappropriate siting and design, it is considered that the proposed development would fail to successfully assimilate with the pattern and character of existing development at this location and would detract from the residential amenity of adjoining properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is proposed to access the site via an existing junction onto a Regional Road at a point where a speed limit of 80 kmh applies and where vision lines are restricted in both directions. It is considered that the additional traffic turning movements associated with the development would endanger public safety by reason of traffic hazard and obstruction of road users. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

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Stephen Ward  
Senior Planning Inspector

19<sup>th</sup> April 2021