



An
Bord
Pleanála

Inspector's Report ABP-310262-21

Development	Single-storey rear extension to civil ceremony building and extend civil ceremony use into two outbuildings
Location	Ballyliffin, Lifford, County Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	21/50354
Applicant(s)	Ballyliffin Lodge & Spa trading as Night Light Accommodations Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Bernard Grant
Observer(s)	None
Date of Site Inspection	27 th September 2021
Inspector	Colm McLoughlin

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1.0 Site Location and Description

1.1. The appeal site measures a stated 0.042 hectares and is situated centrally within the village of Ballyliffin on the Inishowen peninsula in north County Donegal. It features a pedestrian access to the front onto Shore Road, a local road that terminates at the coast approximately 1.2km to the north of the site. A single-storey detached building, formerly known as Cecily's, featuring a rear projection occupies the site and this is understood to be used as a civil ceremony venue known as 'The Gate Lodge' associated with the neighbouring Ballyliffin Lodge and Spa. Along the rear boundary of the site there is a corrugated mono-pitch roof outbuilding that is used as a washroom and a store, and fronts onto a pea-gravel surfaced yard and the rear of the civil ceremony building. To the rear of the site are the gardens of a house known as Lios Tulaigh and adjacent to the south are the vehicular entrances to this house and Ballyliffin Lodge and Spa. There is a detached two-storey house adjacent to the north of the site and this is stated to be the family home of the appellant. Low boundary walls forward of the civil ceremony building separate the site from adjoining properties and a narrow footpath running along Shore Road. The surrounding area is characterised by a mix of uses, including houses, a church and the Strand Hotel, which is opposite the site to the east. Ground levels in the vicinity drop steadily in a northern direction towards the coast.

2.0 Proposed Development

2.1. The proposed development would comprise the following:

- construction of single-storey rear-infill extension amounting to an approximate gross floor area of 23sq.m to form an ancillary porch / lobby space serving the civil ceremony building;
- alterations to the rear outbuilding and the rear elevation of the civil ceremony building and integration of the altered rear outbuilding to form part of the civil ceremony venue (c.13sq.m).

2.2. In addition to the standard drawings and documentation, the planning application was accompanied by a letter from the stated owners of the site, consenting to the lodgement of the planning application.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission for the proposed development, subject to four conditions of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the Planning Officer (April 2021) reflects the decision of the Planning Authority and noted the following:

- the observer's alleged enforcement issues relating to the discharge of conditions attached to a previous planning permission (An Bord Pleanála reference 306342-20 / planning authority reference 19/51572) are being addressed separately by the Council's enforcement section;
- the principle of extending the building is acceptable and the extension would not impact on the character of the host building;
- no alterations to the vehicular access are proposed and the capacity of the venue is not proposed to alter either;
- sufficient parking would continue to be available on the immediate streets;
- the need for a Natura Impact Statement (NIS) can be excluded;
- a verbal representation was received from a local-elected representative.

3.2.2. Other Technical Reports

- Executive Engineer - no objection, subject to conditions;
- Environmental Health Officer – refer to Irish Water and Sanitary Services section;
- Chief Fire Officer – no objection, subject to a condition;
- Building Control - no objection, subject to an advice note.

3.3. Prescribed Bodies

- Irish Water - no response.

3.4. Third-Party Observations

- 3.4.1. One observation was received by the Planning Authority during consideration of the application, from a resident of the adjacent house to the north on Shore Road and this was accompanied by a photographic report, video footage and a copy of the most recent An Bord Pleanála (ABP) decision (ABP ref. 306342-20) relating to the site. The issues raised in this observation are similar to those raised in the grounds of appeal and they are collectively summarised below under the heading 'Grounds of Appeal'.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. The following planning applications relate to the appeal site:
- ABP ref. 306342-20 / Donegal County Council (DCC) ref.19/51572 – retention permission was granted by the Board in April 2020 for the change of use of a house to a civil ceremony venue, the erection of a rear extension, the demolition of front bay projections and the provision of a new front elevation;
 - ABP ref. 302949-18 (DCC ref. 18/51065) - permission was refused by the Board in April 2019 for the change of use of a house to a public house, due to inefficiencies in the wastewater arrangements;
 - DCC ref. 17/51985 – permission was refused by the Planning Authority in April 2018 for the change of use of a house to public house with connection to a holding tank in lieu of the wastewater treatment system, due to the ineffectiveness of the holding tank arrangement in managing the risk of odour and the resultant nuisance to a third-party property, as well as the potential for adverse impacts on a Special Area of Conservation (SAC) located within 0.7km of the site;

- ABP ref. 247996 (DCC ref. 16/51668) - permission was refused by the Board in October 2017 for the change of use of a house to a public house, due to inefficiencies in the wastewater arrangements.

4.2. Surrounding Sites

- 4.2.1. I am not aware of any recent planning applications relating to the neighbouring sites along Shore Road that are of relevance to this appeal.

5.0 Policy & Context

5.1. Donegal County Development Plan 2018-2024

- 5.1.1. Based on the maps accompanying the Donegal County Development Plan 2018-2024, the appeal site is situated within the settlement framework boundary for Ballyliffin. Relevant planning policies and standards for the proposed development are set out under chapter 9 (Tourism) and Appendix 3 (Development Guidelines and Technical Standards) within parts A & B of the Development Plan. Policy TOU-P-15 of the Development Plan addresses extensions to tourist accommodation development and refers to policy TOU-P-20 of the Plan, which sets criteria to be considered when assessing tourism-related developments, including the surrounding character, the visual impacts, the impacts on residential amenities, provision of environmental services, traffic, parking, access, noise and the environmental context for the respective development. Car parking standards are set out in Table 6 to Appendix 3 of the Development Plan.

5.2. Natural Heritage Designations

- 5.2.1. The North Inishowen Coast SAC (Site Code: 002012) is located approximately 900m to the north of the appeal site. Trawbreaga Bay Special Protection Area (SPA) (Site Code: 004034) is located approximately 2.6km to the northeast.

5.3. Environmental Impact Assessment - Preliminary Examination

- 5.3.1. Having regard to the nature and scale of the proposed development serving as an extension to an existing facility and the village 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One third-party appeal has been submitted and this was accompanied by a photographic report, video footage and a copy of the Board's most recent decision (ABP ref. 306342-20) relating to the site. In conjunction with their third-party observations to the Planning Authority, the issues raised by the appellant can be collectively summarised as follows:

- the proposed development would result in overdevelopment and over intensification of use of the site and the venue would not be served by an appropriate additional provision of services, such as car parking;
- pre-development planning conditions from a previous grant of retention planning permission have not been complied with (ABP ref. 306342-20), including those relating to mitigation of light spill and noise levels;
- undue impacts would arise for neighbouring residential amenities as a result of the loss of privacy and the increased noise and disturbance from venue patrons, the facility security alarms and a heat pump;
- proposals should provide for reduced light spill to the adjacent property via the hooding of lights;
- proposals would result in restricted fire and emergency access;
- the proposed development features insufficient washroom facilities and there is an absence of sufficient details relating to a fuel storage area for the electrical power generator;
- the total area of the extension should read as 33.5sq.m;
- the applicant company details have been omitted from the application and the drawings fail to show the overall building height dimensions, the existing

security fencing, necessary details of features outside the redline boundary and an existing side elevation window that should have been removed and infilled as a condition attached to a previous permission.

6.2. Applicants' Response

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

- the proposals would essentially provide for a covered area to allow an improved and sheltered means of arrival for guests prior to entering the civil ceremony venue and no additional guest numbers would be served by the extended floor area;
- the development meets the need for this facility as part of the hotel offering, while not placing additional loadings on public wastewater infrastructures;
- planning policies relating to a modest extension such as this are not contained within the Development Plan;
- all matters raised by the appellant have previously been addressed in the Board's assessment granting retention of the subject civil ceremony venue (ABP ref. 306342-20) and the appellant is merely trying to stall the planning and development process;
- the level of noise impacts arising from security alarms is minimal and the only alarms sounding were associated with testing systems or management errors and each were shut off within minutes of sounding;
- matters with respect to alleged unauthorised development relating to the site are matters for the enforcement section of the Planning Authority;
- this appeal should be dismissed as being vexatious under section 138(1) of the Planning and Development Act 2000, as amended.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response to the grounds of appeal can be summarised as follows:

- the alleged breaches of planning permission are being investigated by the Council's enforcement section under reference UD19151 and the granting of an extension to the building would not conflict with any ongoing enforcement investigations.

6.4. Observations

6.4.1. None received.

7.0 Assessment

7.1. Introduction

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, having inspected the site, and having regard to the relevant local planning policies and guidance, I consider that the main issues for consideration in this appeal are as follows:

- Previous Permission;
- Local Services and Amenities.

7.1.2. I note that in the applicant's response to the grounds of appeal, they request that the appeal be formally dismissed by the Board, as in their opinion it is vexatious and only being used to delay the planning process. I have examined the appeal submission and I am of the opinion that the grounds of appeal raise valid planning issues requiring assessment at appeal stage. Therefore, I would not recommend that the Board dismiss the appeal on the grounds that it is vexatious and/or motivated by other reasons.

7.2. Previous Permission

7.2.1. Following recent decisions refusing to grant planning permission to develop the former house on the appeal site as a public house, in April 2020 the Board granted retention planning permission for use of this former house as a civil ceremony venue (ABP ref. 306342-20) associated with the Ballyliffin Hotel and Spa. The applicant asserts that the primary rationale for the alterations and extension to the rear of the

civil ceremony building, is to address matters arising since undertaking civil ceremony events. The appellant asserts that various conditions attached to the Board's decision permitting the use of the former house as a civil ceremony venue (ABP ref. 306342-20) have not been complied. I am satisfied that any matters raised relating to compliance with conditions of a previous permission are enforcement matters that fall under the jurisdiction of the Planning Authority, as alluded to in the Planning Authority's response to the grounds of appeal.

7.3. Local Services and Amenities

- 7.3.1. The grounds of appeal assert that various aspects of the proposed alterations and extension to the established and operational facility would result in undue impacts on the residential amenities of the appellant's adjoining property to the north of the appeal site, and that it would result in overdevelopment of the site without a commensurate additional provision of support services, such as wastewater treatment and car parking infrastructures. The drawings submitted with the planning application refer to the extended area as serving as a porch or lobby space to the civil ceremony building and the applicant asserts that the development would not result in an increased capacity for the venue. There is not a specific planning requirement for the yard space to the rear of the civil ceremony building to remain as an open area on site. Based on the details submitted with the application, I am satisfied that the proposed development would not result in overdevelopment of the site and would not place any substantive additional demands on local services, including wastewater treatment, water supply, roads or parking.
- 7.3.2. With respect to the potential impacts on local amenities, I note that proposals involving extensions to existing tourist developments require assessment against policy TOU-P-15 of the Donegal County Development Plan 2018-2024, which requires a high-quality sustainable design for such developments and compliance with specific criteria listed in tourism development policy TOU-P-20 of the Development Plan. I am satisfied that criteria listed in policy TOU-P-20 of the Development Plan which is of relevance in considering the subject proposals are those listed with respect to the potential impacts of the development on the visual and the residential amenities of the area.

- 7.3.3. The appeal site does not have conservation status and the proposed extension to the rear of the building would not be highly visible from along Shore Road fronting the site. The proposed extension is of modest scale and its proportions are uncomplicated and would be respectful and reflective of the design and scale of the host civil ceremony building. I am satisfied that the proposed alterations and extension would not result in incongruous additions to the host building or the immediate streetscape. With respect to potential impacts on the amenities of neighbouring properties, including the appellant's adjacent home to the north, the extensions would not feature additional windows or openings directly overlooking neighbouring residences, therefore, undue loss of privacy or excessive overlooking would not arise. Furthermore, by infilling and internalising the rear yard area, the extension walls and roof would provide an additional means of containing any noise and light emissions associated with civil ceremony events. Consequently, I am satisfied that the proposed development would not reasonably lead to undue increased disturbance or nuisance for neighbouring residents.
- 7.3.4. In conclusion, the design of the proposed extension and alterations would not be contrary to policy TOU-P-15 of the Development Plan and would comply with the relevant criteria listed for consideration of such proposals in policy TOU-P-20 of the Development Plan. Accordingly, permission should not be refused for reasons relating to planning policy and the impacts of the proposed development on the visual and residential amenities of the area. Furthermore, I am satisfied that the details submitted with the application allow for a thorough and comprehensive consideration of the proposed development and any issues raised by the appellant with respect to compliance of the proposals with emergency and fire safety regulations fall under separate legal codes and thus need not concern the Board for the purposes of this appeal.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development, the location of the site in a village and the separation distance from the site to the nearest 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.

9.0 Recommendation

- 9.1. Subject to conditions, I recommend that permission should be granted for the proposed development for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the nature, scale and design of the proposed development, and the planning history relating to the site, it is considered that subject to compliance with the conditions below, the proposed development would respect and reflect the scale and character of the host building, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not place additional substantive demands on local services and would not contravene the provisions of the Donegal County Development Plan 2018-2024, including policies TOU-P-15 and TOU-P-20, which set out the requirements for tourism-related extension developments. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The proposed development shall be carried out, in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 9th day of March, 2021, 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the retention permission granted on the 16th day of April, 2020, under appeal reference number 306342-20, planning register reference number 19/51572, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. Water supply and drainage arrangements, including the attenuation and 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 satisfactory standard of development.

4. Site development and building works shall be carried out between the hours of 0800 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.

Colm McLoughlin
Senior Planning Inspector

30th September 2021