



An
Bord
Pleanála

Inspector's Report ABP-310823-21

Development	Extension to existing garage to provide additional ground floor space and first floor ancillary home office and store together with associated works
Location	No. 6 Oakfield Court, Ballymacarry Lower, Buncrana, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	21/50789
Applicant(s)	Martin Devlin
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party vs. Grant
Appellant(s)	Seamus & Pauline Grant
Observer(s)	None
Date of Site Inspection	19th February 2022
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located within the residential estate of Oakfield Court on the southern side of Buncrana Town. Together with Oakfield Crescent, the estate comprises c. 60 houses, which are mainly semi-detached 2-storey and dormer dwellings.
- 1.2. The appeal site comprises an end-of-terrace plot within a row of 4 terraced dormer dwellings. It has a stated site area of 218m² and is relatively flat. The front of the site is open and contains a pedestrian path and grassed front garden, with no dedicated vehicular entrance or parking. Communal parking is provided on the opposite side of the estate road. There is an existing single storey garage to the rear of the site with a stated floor area of 28m². On inspection of the site, I noted that the garage building was being used for the storage of domestic items.
- 1.3. A service lane (a stated 'right of way') surrounds the sides and rear of the terrace and bounds the northeast and northwest boundaries of the site. The laneway is 3.3m wide at the sides but narrows to c. 1.5m to the rear. The existing garage has double doors opening onto the laneway to the side. The rear garden is bounded by timber fencing to the sides and the existing garage to the rear. To the rear of the laneway there is a mature hedgerow adjoining an access road and playing pitches.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of extensions to the existing garage to provide additional ground floor space and first floor ancillary home office and store space. The gross floor area of the building would be increased from 28m² to 64m² and the height would be increased from c. 4m to c. 6.4m. The ground floor would incorporate an entrance porch and stairs, along with a WC and the main garage floor area. The first-floor area would include a home office and additional storage space.
- 2.2. Unsolicited further information was submitted on behalf of the applicant outlining that the applicant is a local builder specialising in house maintenance/repairs. It is stated that basic storage/office facilities are required to facilitate home working. The submission contends that that no additional traffic will be generated and that the side access will facilitate loading and unloading of equipment without any necessity to park on the existing access road.

3.0 Planning Authority Decision

3.1. Decision

By order dated 17th June 2021, 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. 2 requires the replacement of the box dormer window with a roof light and the use of obscured glazing in the first-floor window of the northeast elevation.

Condition no. 3 states that the garage, office and storage area shall be used solely for domestic purposes ancillary to the residential enjoyment of the existing dwelling and shall not be used for any other purpose, be that business, residential or other.

Condition no. 4 requires finishes to match the existing dwelling.

3.2. Planning Authority Reports

The Planner's Report can be summarised as follows:

- In response to third-party submissions, it is stated that:
 - Windows can be altered to prevent overlooking
 - Since a previous refusal (P.A. Ref. Reg. 19/51775), evidence would suggest that the property is no longer used as an 'AirBnB'
 - Any unauthorised change of use would be a matter for enforcement
 - Blocking of an existing opening to playing fields is not a material planning consideration
 - The additional floorspace will be ancillary to the main residential use
 - There is no requirement to be attached to the existing house
- The principle of a domestic extension to an existing residential use is acceptable.
- The scale of the proposal is ancillary and subordinate to the existing dwelling and is in keeping with the character of the area.

- Sufficient private amenity space can be retained (c. 50m²).
- The development will be largely screened by existing development and vegetation.
- There would be overlooking of No. 7 Oakfield Court and the detached properties along Railway Road., and alterations/omissions are suggested by condition.
- No alterations are proposed to the existing access or parking arrangements and the domestic nature of the development would be consistent with existing residential use.
- The site is connected to existing drainage services.
- No Appropriate Assessment issues arise.
- A grant of permission is recommended, subject to the conditions outlined in the DCC notification of decision.

The Executive Engineer (Roads) report has no objection to the proposal subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

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

- The need for additional space is questioned.
- Whether or not the garage must be attached to the existing dwelling.
- Over-development of the site.
- Overlooking, light and privacy impacts for adjoining properties.
- Additional traffic and parking impacts.
- Potential use as short-term holiday letting or as a rental property.

- The availability of alternative vacant retail units in Buncrana.
- Blockage of a right-of-way.
- Minimal alterations to a previously refused proposal.

4.0 Planning History

P.A. Ref. 19/51775: Permission REFUSED (16th January 2020) for the erection of an extension to existing garage to provide additional ground floor space and first floor ancillary domestic store together with associated works. The reasons for refusal were as follows:

1. *The subject site is located on lands zoned 'established development' within the settlement of Buncrana. The objective of this zoning is, 'To ensure the protection of the character and biodiversity of established areas and to allow for new development that is both appropriate and orderly in the context of the established area'.*

It is the policy of the Council as set out in UB-P-25 not to permit development that involves the sub division of residential sites where:

- (a) *The proposal would adversely effect the visual and residential amenity of adjoining properties and the surrounding area or give rise to adverse transport or road safety effects associated with the proposed development.*
- (b) *The proposal would adversely affect the amenity of adjoining properties.*

Furthermore the proposed development would not accord with Policy UB-P-27 as it is considered that the proposed development would constitute a discordant and substandard form of development which would by itself, and by the precedent it would create, be contrary to the above-mentioned land use zoning objective and policy UB-P-25. It is therefore considered that to permit the proposed development would materially contravene the aforementioned land use zoning objective and policies of the County Development Plan 2018-2024 and would thereby be contrary to the proper planning and sustainable development of the area.

2. *Having regard to the scale, nature and potential use of the proposed structure, it is considered that the proposal constitutes the disorderly over development of the constrained residential plot. Accordingly it is considered that to permit the development, would by itself, and by undesirable and unsustainable precedent, be contrary to the proper planning and orderly development of the area, particularly that of the adjoining dwelling houses within the overall estate.*

5.0 Policy Context

5.1. County Donegal Development Plan 2018-2024

- 5.1.1. Section 6.2 of the Plan deals with Urban Housing and aims to promote design quality. Relevant policies can be summarised as follows:

UB-P-12 - To protect the residential amenity of existing residential units and to promote design concepts for new housing that ensures the establishment of reasonable levels of residential amenity.

UB-P-27 - Proposals for 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 amenity of adjoining properties

- 5.1.2. Section 5.1 deals with Transportation. Relevant policies include the following:

T-P-13 - Requires development proposals to provide adequate provision for car parking and associated servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the standards set out in Appendix 3 Development and Technical Standards.

- 5.1.3. Part C of the Development Plan is 'Objectives and Policies of the Towns'. Chapter 13 deals with Buncrana and the accompanying Land Use Zoning Map demonstrates

that the site is zoned as 'Established Development'. The zoning objective for such sites is *'To ensure the protection of the character and biodiversity of established areas and to allow for new development that is both appropriate and orderly in the context of the established area.'*

5.2. Natural Heritage Designations

The site is located approximately 100 metres southeast of Lough Swilly SAC.

5.3. Environmental Impact Assessment Screening

Having regard to the nature and scale of the proposed development, comprising an extension to a domestic garage in a serviced urban area, 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 decision of DCC to grant permission has been appealed by Seamus & Pauline Grant, of No. 5 Oakfield Court. It includes letters of support from Francis McGrory (No. 3 Oakfield Court) and Terence Lynch (No. 7 Oakfield Court). The grounds of appeal can be summarised as follows:

- The proposal would be massive overdevelopment of the site and would be contrary to the previous DCC decision (P.A. Reg. Ref 19/51775).
- There is only limited parking available at present and the roads infrastructure would not be able to cope with any additional traffic.
- The outward opening doors would block the right of way for the residents of No.'s 3, 4, 5 and 7, and any parking or obstruction will impede access, including possible emergency access.

- The applicant's intentions for home-working use are questioned as he has never lived in the property. It is rented at present and was previously used as an 'Airbnb'.
- The proposal is not similar to other developments in the area. None of the sheds have been converted to office space, do not include toilet facilities, and are not 2-storey in height.

6.2. Applicant Response

The applicant did not respond to the appeal within the statutory time period.

6.3. Planning Authority Response

The response of the planning authority largely reiterates the contents of the Planner's report. It states that the door opening arrangement does not differ from the existing arrangement and would not cause a permanent obstruction to the right of way. It also emphasises the lack of evidence of short-term letting use and contends that the appeal should be considered as a domestic extension to an existing residential property.

6.4. Observations

None.

7.0 Assessment

7.1. 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, Parking and Traffic

7.2. The principle of the development

- 7.2.1. I acknowledge the concerns raised in the application and appeal about the planning history of the site, the previous use of the dwelling for short-term letting, and potential future changes of use of the subject structure. However, the application indicates that the proposed development would be used for home-working and associated storage of equipment. I do not consider that it would be uncommon or unreasonable to facilitate such ancillary uses within the curtilage of a dwelling, depending on their nature and scale.
- 7.2.2. In this regard, I consider that the proposal is of a limited scale and would not be of a nature that would have material impacts for the area by reason of intensification of use, noise, emissions, employees or customers etc. Accordingly, I am satisfied that the proposal would be for domestic purposes ancillary to the enjoyment of the existing dwellinghouse as such. Upon my inspection of site, there was no evidence of any current use other than residential, and I do consider that the appeal should be treated any differently even if the applicant is not currently living in the house. Any potential future change of use of the property would be a matter for enforcement investigation by the planning authority.
- 7.2.3. Subject to further assessment in accordance with the criteria outlined in Policy UB-P-27 of the Development Plan, I am satisfied that the proposal would be consistent with the 'Established Development' zoning objective for the area, and I would have no objection to the principle of the proposed development.

7.3. Visual Amenity

- 7.3.1. The proposed development is located to the rear of the existing terrace (to the southwest) and other adjoining dwellings to the northeast. These existing properties would, therefore, largely screen the proposed development as viewed the public realm to the front of the site. It would only be marginally visible through the existing service lane gap between No. 6 and No. 7.
- 7.3.2. The rear view of the site (from the playing pitches) is also screened by dense vegetation to a height of c. 4 metres. Although the roof space of the development would be visible above this screening, I consider that it would simply be seen against

the backdrop of the existing houses in Oakfield Court and would have a limited visual impact.

- 7.3.3. Having regard to the above, I consider that the scale and character of the proposal would satisfactorily assimilate with existing development at this location and would not adversely impact on the visual amenities of the area.

7.4. Residential Amenity

- 7.4.1. At first-floor level, I note that a box-dormer window and a gable window are proposed. The gable window would serve a storage room and would have the potential to overlook the rear private garden of No. 7 to the northeast. However, I am satisfied that this can be satisfactorily addressed through the use of obscured glazing, which is appropriate for a storage space.
- 7.4.2. I note that the planning authority decision also requires the replacement of the box-dormer with a roof light. This dormer would directly overlook community playing pitches, which would be separated by c. 9 metres by an access road, dense vegetation, and the rear laneway. I do not consider that the playing pitches are sensitive to overlooking impacts and I note that the planning authority concerns relate to the existing detached properties to the west along Railway Road. However, the proposed window would be at least 15 metres from these properties and any overlooking would occur at an angle. Accordingly, I consider that there would be adequate separation and the omission of the box-dormer window is not warranted.
- 7.4.3. In terms of overbearing impacts and impacts on light, I note that the existing gardens are quite long (15 metres), which facilitates a reasonable separation from existing dwellings and the retention of adequate private amenity space for the subject property. The proposed development does not directly oppose the windows of any neighbouring properties and would not, therefore, directly obstruct daylight to such windows. Furthermore, the neighbouring dwellings are generally located to the east and south of the proposed development, and I am satisfied that there would be no significant obstruction of sunlight to these properties.
- 7.4.4. Otherwise, I have previously outlined my opinion that the nature and scale of the proposed development would be ancillary to residential use. It would be used for home-working and storage purposes, which would not be likely to create any

adverse impacts on residential amenity by reason of noise, activity of other disturbances.

- 7.4.5. Having regard to the above, I do not consider that the proposed development would seriously detract from the residential amenities of surrounding properties.

7.5 Access, Parking and Traffic

- 7.5.1. I note that there is currently no dedicated on-site parking, and that vehicular access is limited to the existing laneway which adjoins the site to the northeast. Communal parking is provided in the form of grouped spaces adjoining the existing open space to the front of the site. It is not proposed to alter these existing access and parking arrangements. The application outlines that the existing laneway would facilitate the loading and unloading of equipment, but that there would be no additional traffic generated. Having regard to the limited scale of the development and its ancillary nature to residential use, I do not consider that there would be any likely significant increase in traffic or parking requirements. Accordingly, I do not consider that the proposal would adversely impact on the existing road and parking services.
- 7.5.2. Regarding potential impacts on the existing right of way, I note that the existing garage has doors opening outward onto the laneway and this arrangement would effectively be continued in the proposed development. Having regard to the nature and limited scale of the development, I consider that any obstruction to the right of way would likely be of limited frequency and duration and would not significantly impact on ease of movement at this location. I note that there is another existing garage entrance to No.7 opposite the proposed development. In terms of the applicant's legal interest, I am satisfied that sufficient evidence has been provided for the purposes of the planning application and decision. In any case, any dispute regarding legal interest and impacts on the right of way would be a matter to be resolved between the parties, having regard to the provisions of s. 34(13) of the Planning and Development Act 2000 (as amended).

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 a Natura Impact Statement is not, therefore, required.

9.0 Recommendation

I recommend that permission should be **granted**, subject to conditions, for the reasons and considerations as set out below.

10.0 Reasons and Considerations

Having regard to the pattern and character of development in the area, the design and scale of the proposed development, and the provisions of the County Donegal Development Plan 2018-2024, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning for the site, would not seriously injure the visual amenities of the area or the residential amenity of surrounding properties and would not endanger public safety or convenience by reason of traffic generation. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. 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 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to that as a garage, home office and store (as specified in the lodged documentation) and shall be incidental to the enjoyment of the existing dwelling house as such, unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity.

3. The first-floor window on the northeast elevation shall be glazed with obscure glass.

Reason: To prevent overlooking of adjoining residential property.

4. Water supply and drainage requirements, including surface water collection and disposal, 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 proper standard of development.

5. The external finishes of the proposed development (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity

6. 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 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.

Stephen Ward
Senior Planning Inspector

20th February 2022