



An  
Bord  
Pleanála

## Inspector's Report ABP-312468-22

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| <b>Development</b>                  | To build a covered outdoor deck area and all associated site development works. |
| <b>Location</b>                     | Glebe Townland, Donegal Town, Co. Donegal.                                      |
| <b>Planning Authority</b>           | Donegal County Council  |
| <b>Planning Authority Reg. Ref.</b> | 21/52115  |
| <b>Applicant(s)</b>                 | Wendy McCarry of the Blue Stack Special Needs Foundation                        |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant, subject to 4 conditions  |
| <b>Type of Appeal</b>               | Third Party -v- Decision  |
| <b>Appellant(s)</b>                 | Laurence & Eilish McCarroll   |
| <b>Observer(s)</b>                  | None  |
| <b>Date of Site Inspection</b>      | 14 <sup>th</sup> April 2022   |
| <b>Inspector</b>                    | Hugh D. Morrison  |

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## 1.0 Site Location and Description

- 1.1. The site is located 0.55 km to the south of “The Diamond” in Donegal town centre. This site lies in “The Glebe”, a predominantly residential area in the southern portion of the town to the south-east of the River Eske, which also includes non-residential uses such as the Abbey Glebe Dental Practice and the Abbey Vocational School. The R267 runs through this area. It affords access off its western side to the site via a cul-de-sac, which also serves four dwelling houses, one of which is “The Water’s Edge Bed n’ Breakfast”.
- 1.2. The site itself is of roughly regular shape and it extends over an area of 0.354 hectares. This site accommodates a single storey building (205 sqm), which is sited in its eastern half, and which is accompanied within this half by an eleven-space car park and site entrance off the southern side of the aforementioned cul-de-sac.
- 1.3. The western half of the site comprises a garden, which is subject to a gentle downward slope towards the west. On the northern side and to the immediate rear of the building is a raised patio area, beyond which the garden is down to grass. In the south-eastern corner of the garden there is a single storey timber building with a glazed front elevation, which adjoins an outdoor seating area. Together this building and this seating area are in use as a coffee dock. They are accompanied to the west by a polytunnel. The garden is enclosed by means of a timber fence. Towards its western extremity play equipment is sited and beyond its western boundary, and above the accompanying shoreline of the River Eske Estuary, are a line of eight deciduous and coniferous trees. Two former trees from within this line have recently been felled.

## 2.0 Proposed Development

- 2.1. The proposal is to build a covered outdoor deck area (28 sqm) and all associated site development works. This deck area would be sited central within the western extremity of the garden to the rear of the applicant’s building. It would be accompanied by a 1.5m wide path, which would be constructed as an extension to the existing path along the southern side of the garden, which leads at present to a memorial garden.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

Permission was granted subject to 4 conditions.

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

#### 3.2.1. Planning Reports

See decision.

#### 3.2.2. Other Technical Reports

- Donegal County Council: Building Control: Standard advice.

## 4.0 **Planning History**

- 08/20693: Change of use from a bed n' breakfast/dwelling house to a community facility building, to include reception area, offices, educational/networking room, therapy room, staff room and facilities, car parking area, hardstanding, and all associated facilities: Permitted.
- 20/51779: Retain a new coffee dock portacabin to the rear of the existing building and all associated site works including connection to existing services: Retention permission granted.

## 5.0 **Policy and Context**

### 5.1. **Development Plan**

Under the Donegal Town Local Area Plan 2018 – 2024 (as varied) (LAP), the site is shown as lying within the town boundary and its eastern and western portions are shown as, variously, lying within the land use zones known as “established development” and “local environment”. (Indicative pedestrian and cycling links are shown as lying along the foreshore further to the west). The objective for the former zone is “To conserve and enhance the quality and character of the area, to protect residential amenity and to allow for development appropriate to the sustainable

growth of the settlement.” The objective for the latter zone is “To provide for limited one-off housing and small-scale economic development so as to ensure the continued settlement pattern and sequential and transitional development of the towns through to rural areas.”

## 5.2. **Natural Heritage Designations**

- Donegal Bay (Murvagh) SAC (000133)
- Donegal Bay SPA (004151)

## 5.3. **EIA Screening**

The proposal is not a class of project that is subject to EIA.

## 6.0 **The Appeal**

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

- The appellants begin by summarising the history of the access road, which serves the applicant’s site and their own and other residential properties. While this access road has recently been improved, it still has not been “taken-in-charge”. They also review the conditions attached to the change of use permission granted to the applicant’s site under 08/20693, several of which they considered have not been adhered to. In particular, Condition No. 7 requires that trees, shrubs, and hedgerows be retained, and yet some trees have been removed to the detriment of views from their residential property, shelter from the prevailing wind, and biodiversity.
- The proposal would entail the loss of a long-established view of Donegal Bay, which the appellants enjoy from their residential property. Such loss would negatively impact upon the value of their property.
- The proposal would add to the intensive use of the applicant’s site, and it would generate more traffic. Existing problems with on-street car parking would be exacerbated thereby.

- The proposal itself and the accompanying footpath to it would harm a greenspace close to the Donegal Bay SAC and SPA: This would surely be inappropriate?
- The proposal could be sited on one of the tiled areas to the side and rear of the applicant's building rather than within the greenspace further to the west.
- The polytunnel is being used as a storage shed.

## 6.2. Applicant Response

- Attention is drawn to the improvements made to the access road, which is now to the requisite standard.
- Neighbours were advised of the need to remove dead trees before works were undertaken. Their removal has opened up views of Donegal Bay.
- The proposal would be sited at a lower level than the appellants' residential property and so its profile would be correspondingly less. A similar, if smaller, structure for the purpose of viewing Donegal Bay is in evidence in the front garden of the nearby "The Water's Edge Bed n' Breakfast".
- The on-street parking problem is not attributed to the applicant, who has an adequate off-street parking area in front of its building.
- While 4 spaces were being rented, this will cease in February 2022, as they are needed by the applicant.
- The juxtaposition of the applicant's site adjoining the European sites is valued, especially as the wildlife present upon its site is provide therapeutic sensory experiences to users of the "additional needs" facility.
- The tiled surfaces are needed for users who are unable to walk on grass surfaces. The impetus for the siting of the proposal is to avail of the views of Donegal Bay. These would not be available, if it were to be sited on the tiled surfaces.
- The polytunnel on the site is used primarily for therapeutic horticultural activities. Any storage of outdoor furniture is undertaken on a temporary basis during inclement weather.

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

- Attention is drawn to the established use of the applicant's site.
- The view identified by the appellants is not a protected one under the CDP.
- The unauthorised re-siting of the coffee dock is not under consideration.
- The proposal would be a low impact one which would be capable of being accommodated within its setting.
- The proposal would be used in conjunction with the wider site and so it is unlikely that additional traffic/parking would ensue.
- Given the low impact nature of the proposal, it would not adversely affect the neighbouring European Sites.

### 6.4. **Observations**

None

### 6.5. **Further Responses**

None

## 7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the Donegal Town Local Area Plan 2018 – 2024 (as varied) (LAP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Use,
- (ii) Traffic and parking,
- (iii) Visual amenity, and
- (iv) Appropriate Assessment.

### **(i) Use**

- 7.2. Under application 08/20693, permission was granted for a change of use of the site from a bed n' breakfast/dwelling house to a community facility building. The current applicant, Blue Stack Special Needs Foundation, obtained this permission and it is this organisation that presently occupies/uses the site.
- 7.3. Under the proposal, a covered outdoor timber deck would be sited centrally in the western extremity of the rear garden to the community facility building. This 28 sqm deck would be 7m long and 4m wide. It would be covered by means of a double pitched roof with fully hipped ends: its ridge height would be 3.183m. This roof would be clad in metal sheeting, and it would be supported by 6 timber uprights. The sides of the deck would be enclosed by means of timber balustrades. The finished floor level of the deck would be 100.20m, while that of the building and adjacent coffee dock would be, variously, 102.30m and 101.70m. The deck would be used by clients and staff to view the River Eske Estuary/Donegal Bay to the west and south-west of the site.
- 7.4. The use of the proposal would be ancillary to the existing use of the community facility building. It would not entail any change of use of the site. As a passive use of the rear garden, it would not add significantly to the intensity of the use of this garden, which pertains at present.
- 7.5. I conclude that the proposal would not entail any material change of use of the site.

### **(ii) Traffic and parking**

- 7.6. The parties to this appeal discuss traffic and more especially local parking issues.
- 7.7. In view of my observations and conclusion under the first heading of my assessment, I do not consider that the proposal would attract additional people to the site or increase the frequency of attendance of existing users of the site. In these circumstances, it would not generate any additional traffic and so it would have no effect upon the parking situation either on the site or in the surrounding locality.
- 7.8. Other issues raised by the appellants concerning the cul-de-sac that serves the site and their residential property, amongst others, are not relevant to this appeal/application.



7.9. I conclude that the proposal would not generate any additional traffic and so it would not affect the local parking situation.

**(iii) Visual amenity**

7.10. The appellants' bungalow is sited to the north of the community facility building and on the opposite side of the cul-de-sac. It is tilted slightly to the north of west, while this building faces due west. This bungalow has a projecting feature to the front and a southerly gabled side elevation with a secondary gabled feature set within it.

- The projecting feature and the portion of front elevation on its southern side contain windows that reflect the orientation of this elevation, i.e., they are tilted slightly to the north of west. The proposal would be sited at least 41m and 42m away from these windows on a line to the south of west.
- The southern side of the projecting feature and the southerly gabled side elevation contain windows that face almost due south and so they overlook the patio and the initial portion of the garden to the rear of the community facility building on the site. The proposal would appear only peripherally in these views at distances of 41m and 42m, respectively.
- The remaining window is a corner one to the secondary gabled feature. It would correspond more directly with the proposal over a distance of 44.5m. The appellants have submitted a photograph of their existing view from this window, which shows the intervening low-level boundary wall to their residential property and the low-level timber fence to the site.

7.11. Under the planning system there is no right, as such, to a view, unless it is specifically protected in the CDP. The Planning Authority advise that this is not the case in the present instance. The applicant has explained that views through the trees of the Estuary/Bay have opened-up in recent times due to the removal of two dead trees from within the line of trees beyond the rear fence to their garden. The proposal would affect this opened-up view. However, as the finished floor level of this proposal would be lower than that of the appellants' bungalow, its full profile above the intervening wall and fence lines would not be evident, i.e., its balustrades would be largely hid and its shallow metallic roof would be visible. Consequently, views of the Estuary/Bay below and above this roof would be available.

- 7.12. The appellants draw attention to Condition No. 7, which was attached to the permission granted to 08/20693, and which requires the retention of trees and their replacement when they die. Accordingly, the applicant should not have felled the two trees and, now that they have been felled, they should be replaced. However, the application site in question did not extend to the west of the fence line along the western boundary of the rear garden and so it did not include within its ambit the tree line in question. Condition No. 7 is not, therefore, applicable.
- 7.13. The appellants request that the proposal be re-sited to the patio to the rear of the community facility building. The applicant responds by stating that this tiled patio needs to be retained for users of the facility who are unable to walk on grass surfaces. She also states that only lesser views of the Estuary/Bay would be available from here. Additionally, I note that this proposal would, if sited on the patio, be closer to the appellants' bungalow and so more evident from some of their south facing windows.
- 7.14. In view of the foregoing considerations, I consider that the appellants concern over the loss of a view of the Estuary/Bay that is unprotected and that only recently was opened-up to be as expansive as it is at present, cannot, under the planning system, be given the weight that they seek to attach to it. The partial obstruction of this view, by effectively the shallow metallic roof of the proposal, would be most evident from their corner window over a distance of 44.5m. In these circumstances, any loss of visual amenity would be minor, and it would not affect the value of their property as they suggest.
- 7.15. I conclude that the proposal would be compatible with the visual amenities of the area.

#### **(iv) Appropriate Assessment**

- 7.16. The site lies beside the River Eske River and Donegal Bay. This water body forms part of the Donegal Bay (Murvagh) SAC (000133) and the Donegal Bay SPA (004151). The project is to build a covered outdoor timber deck area in a position adjacent to the western boundary of the site, which is adjacent to the shoreline. A spur to an existing path would also be laid to facilitate access to this deck area. Given the nature of this project and its modest scale, it would have no significant effects upon the nearby SAC and SPA.

7.17. Having regard to the nature, scale, and location of the proposal and the nature of the receiving environment, it is concluded that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

That permission be granted.

## 9.0 Reasons and Considerations

Having regard to the permitted and established use of the site, the proposal would be an ancillary structure to the community facility building on this site, which would be used for passive recreation by existing users of this building. As such, it would not add to the intensity of the use of the site. Accordingly, the proposal would not lead to an increase in traffic and attendant parking. This proposal would, due to its siting, light weight form, and modest size, be compatible with the visual amenities of the area. It would raise no Appropriate Assessment issues. The proposal would, therefore, accord with the proper planning and sustainable development of the area.

## 10.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p> |
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| 2. | <p>A sample of the dark grey metallic roof sheeting for the proposed covered outdoor deck area shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p> |
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Hugh D. Morrison  
Planning Inspector

29<sup>th</sup> April 2022