



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313556-22

<b>Development</b>	Retention permission for Vehicular entrance as constructed including all other associated site development works.
<b>Location</b>	Glenleary, Ramelton, Letterkenny Po, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2152589
<b>Applicant(s)</b>	Charles Roarty.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Christopher and Sonyia McCleane.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	25 <sup>th</sup> July 2022.
<b>Inspector</b>	Barry O'Donnell

## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 0.2ha and is located in the townland of Glenleary, south of Ramelton in County Donegal. The site contains a two-storey house, which has been permitted for use as short-stay accommodation associated with adjacent riding stables, and which was at advanced construction at the time of my inspection.
- 1.2. The site is located in a rural area, where there are a number of rural houses and a riding school, Glenleary Riding School, which is also in the applicant's ownership. It is accessed via the L5812, a narrow country lane that at the time of my inspection appeared to be undergoing upgrade/improvement works.

## **2.0 Proposed Development**

- 2.1. The proposed development entailed within the public notices comprises retention of existing vehicular entrance and including associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority granted permission on 14<sup>th</sup> April 2022, subject to 5 No. conditions.
  - Condition No. 2 required the applicant to provide sightlines of 2.4m x 45m to the north-east and 2.4m x 70m to the southwest, measured to the nearside road edge.

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

- 3.2.1. Planning Reports dated 11<sup>th</sup> February 2022 and 7<sup>th</sup> April 2022 have been provided, which reflect the decision to grant permission. The first report states that the development is acceptable in principle but identifies concerns regarding surface water drainage. A request for additional information is recommended in this regard. The second report followed receipt of the additional information submission. It summarises and responds to the submission and recommends that permission be

granted subject to 5 No. conditions, which are consistent with the Planning Authority's decision.

### 3.2.2. Other Technical Reports

A **Roads Department** report dated 8<sup>th</sup> February 2022 has been provided, which requests that the applicant should demonstrate attenuation of stormwater on the site, to limit run-off to the agricultural level.

### 3.3. Prescribed Bodies

3.3.1. The Planning Report indicates that Irish Water was consulted on the application but did not make a submission.

### 3.4. Third Party Observations

3.4.1. A number of third-party submissions were received, the issues raised within which can be summarised as follows: -

- Absence of functional connection to riding stables.
- Existence of appropriate alternative access.
- Surface water drainage.
- Traffic.
- Lack of information as part of application.
- Contravention of a previous planning condition.

## 4.0 Planning History

4.1. The site has a number of planning records. Of relevance to this appeal is: -

**1350339:** (ABP Ref. PL 05E.242010) Permission granted on 4<sup>th</sup> October 2013 for construction of a two-storey residential building for the purposes of providing short-stay accommodation ancillary to adjacent riding stables. The proposed development included a new site access and associated site works. Condition Nos. 2 and 3 of the Board's Order are relevant to the current appeal and state:

2. The proposed development shall be used for residential purposes only and restricted for use as ancillary residential accommodation for children and adults attending the immediately adjoining equestrian facility.

3. Vehicular access to the proposed facility shall be provided via the proposed new entrance, onto the gravel road along the northern boundary of the site, to serve the equestrian centre permitted under An Bord Pleanála appeal reference number PL 05E.242002 and via the stable yard only.

Permission was subsequently granted for an extension of duration of the permission, under Reg. Ref. 1751616, which extended its lifetime for a further 5 years.

**1350340:** (ABP Ref. PL 05E.242002) Permission granted on 4<sup>th</sup> October 2013 for removal of stables, construction of indoor sand arena, stables and associated rooms and replacement WWTP. Condition Nos. 2 and 7a stated: -

2. The existing vehicular access located at the north-western corner of the site shall be permanently closed off to vehicular traffic immediately upon the opening and completion of the new vehicular access onto the existing gravel laneway along the northern boundary of the site.

7. (a) Prior to commencement of development, permanent visibility splays of 70 metres shall be provided in each direction at a point 2.4 metres back from the road edge at the location of the vehicular entrance. Visibility in the vertical plane shall be measured from a driver's eye-height of 1.05 metres and two metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision Splays shall be calculated and provided as per Figure 7 of Section 10.2.10 of Chapter 10 (Development and Technical Standards), County Donegal Development Plan 2012- 2018.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1. The site is in a rural, unzoned part of County Donegal. Map 6.2.1 'Rural Area Types' identifies that the site is in a stronger rural area.

5.1.2. Relevant policies include: -

**RH-P-1:** It is a policy of the Council that the following requirements apply to all proposals for rural housing:

1. 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 and shall comply with Policy RH-P-2;
2. Proposals for individual dwellings shall be sited and designed in a manner that enables the development to assimilate into the receiving landscape and that is sensitive to the integrity and character of rural areas as identified in Chapter 7 and Map 7.1.1 of this Plan. Proposals for individual dwellings shall also be located in such a manner so as not to adversely impact on Natura 2000 sites or other designated habitats of conservation importance, prospects or views including views covered by Policy NH-P-17;
3. Any proposed dwelling, either by itself or cumulatively with other existing and/or approved development, shall not negatively impact on protected areas defined by the North Western International River Basin District plan;
4. Site access/egress shall be configured in a manner that does not constitute a hazard to road users or significantly scar the landscape, and shall have regard to Policy T-P15;
5. Any proposal for a new rural dwelling which does not connect to a public sewer or drain shall provide for the safe and efficient disposal of effluent and surface waters in a manner that does not pose a risk to public health and accords with Environmental Protection Agency codes of practice;
6. Proposals for individual dwellings shall be subject to the flood risk management policies of this Plan;
7. 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).

**RH-P-2:** It is a policy of the Council to consider proposals for a new rural dwelling which meets a demonstrated 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:-

1. A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in the rural area;
2. A proposed dwelling shall not create or add to ribbon development (see definitions);
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;
4. A proposed dwelling will be unacceptable where it is prominent in the landscape; and shall have regard to Policy T-P-15;
5. A proposed new dwelling will be unacceptable where it fails to blend with the landform, existing trees or vegetation, buildings, slopes or other natural features which can help its integration. Proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. The extent of excavation that may be considered will depend upon the circumstances of the case, including the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings (as elaborated below).

## **5.2. Natural Heritage Designations**

- 5.2.1. The site is not located within or adjacent to any designated European site. The closest such sites are the Lough Swilly SAC/SPA complex, which are c.2km south-east, and Leannan River SAC, which is c.2.2km north.

## **5.3. EIA Screening**

- 5.3.1. The subject development constitutes retention of a vehicular entrance that is associated with an existing house. This type of development does not constitute an EIA project and so the question as to whether or not it might be sub-threshold does not arise.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The subject site has been the subject of 3 No. applications over the last 5 years, which included appeals to the Board. The current application is the third application and it is an attempt to divorce the subject site and ancillary residential building from the from existing stables
- The previous Inspector recommended that permission be refused for the development but this was not accepted by the Board. Conditions were attached to the Board's Order, which limited the use of the building and specified the means of access to the development.
- The proposal seeks to reverse the requirement that only one entrance be provided to the landholding, which was required in the interests of traffic and pedestrian safety.
- The equestrian centre has not been constructed and it is questioned whether the short-stay accommodation is required.
- The ancillary accommodation that the proposed access will facilitate can only be occupied in association with a separate approved development, but which has not yet been constructed.
- The Board's previous opinion, that surface water could be adequately contained within the site, was incorrect and surface waters draining onto the road are added to by those draining from the subject site.
- At the additional information stage, it was proposed that surface waters would drain via a 180m length of pipe, to a drain adjacent to the public road. This pipe route is outside the applicant's ownership. The Board cannot grant permission in these circumstances, as there is no guarantee that the proposals can be implemented.
- Information provided regarding the proposed surface water drainage solution is also inadequate and does not, for example, clarify the extent of excavation or the suitability of the soil for a pipe to be laid.

- Surface water drainage may also give rise to Appropriate Assessment issues, where there is connectivity between the drain and designated European sites.
- The Board is requested to give consideration to identified sightlines against those available on the ground, which do not appear to match. Achievement of adequate sightlines is important, in view of existing usage of the site has resulted in a traffic hazard.

## **6.2. Applicant Response**

6.2.1. A first party response to the appeal was received on 1<sup>st</sup> June 2022, submitted on behalf of the applicant by Genesis Planning Consultants. The contents of the submission can be summarised as follows: -

- The acceptability of the residential building is not in question.
- A reduced access lane and revised access point are more appropriate to serve the building as it will avoid undue scarring or an excessive curtilage.
- It is misleading to draw reference to the Inspector's report on Ref. PL 05E.242010, in the context of flooding and drainage, which related to a larger scale of development. Drainage proposals were discussed with the Planning Authority in advance of the application and at the additional information stage and are adequate.
- The Planning Authority report deemed proposed vision lines to be adequate.
- The proposal does not involve works on third-party lands. The surface water pipe mentioned in the appeal has already been laid.
- Issues regarding appropriate assessment were considered by the Planning Authority and will be considered by the Board in its assessment of this application.

## **6.3. Planning Authority Response**

6.3.1. A submission was received on 7<sup>th</sup> June 2022, the contents of which can be summarised as follows: -



- The majority of issues raised were addressed by the planning reports dated 11<sup>th</sup> February 2022 and 7<sup>th</sup> April 2022.
- Arguments regarding the use of the permitted building are not relevant, as condition No. 2 of ABP Ref. 05E.242010 is still relevant. This condition relates to the usage of the building, so cannot become statute barred.
- Given the status of the road and the low-level traffic volumes, the new access is considered acceptable.
- A condition requiring that the building should continue to be served by both the proposed access and directly from the stable would be welcomed by the Planning Authority.
- The issue of material contravention of a planning condition does not arise, as the affected condition still stands.
- The point of discharge for surface water, to an existing drain, is within the overall landholding and the drain is considered to have capacity to accommodate run-off from the site.
- The Planning Authority is aware of the land ownership from previous applications and considers the surface water drainage proposals is a solution to the ongoing ponding issue on the road.
- The location of the point of access to the drain does not comprise a hydrological link to a European site
- The Board is requested to uphold the decision to grant permission.

#### **6.4. Observations**

6.4.1. None.

#### **6.5. Further Responses**

6.5.1. None.

## 7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, I consider the main planning issues to be considered are:

- Principle of development;
- Layout;
- Drainage; and
- Appropriate assessment.

### 7.2. Principle of Development

7.2.1. The Board previously granted permission for a two-storey building, to be used as short-stay accommodation ancillary to adjacent riding stables, under Reg. Ref. 13/50339 (ABP Ref. PL 09. 242010). The applicant proposed, as part of that application that vehicular access to the site would be shared with a proposed new riding stables complex access, via an opening at the end of the parking/circulation area.

7.2.2. The applicant now seeks to retain a vehicular access directly onto the L5812, to serve the residential building, and states within the appeal response that the approved riding stables complex has not been commenced due to price inflation and the current market demand being met by the existing complex.

7.2.3. The appellant submits that the development is an attempt to divorce the subject site and ancillary residential building from the existing stables and that it undermines the Board's requirement that the vehicular access should be shared.

7.2.4. I have considered the information provided with the application and appeal and I note that the applicant states that the approved riding stables complex, which the short stay accommodation building was to share an access with, has not been commenced due to inflation and the current market demand being met by the existing complex. I also noted on my site visit that the applicant has opened a new access onto the L5812 for the riding stables, which is directly east of the existing stables.

7.2.5. There is no requirement, as the appellant suggests, that the approved building can only be occupied in association with completion of the approved riding stables

complex. Condition No. 2 of the Board's Order on PL 09.242010 states that it is restricted to use as ancillary residential accommodation for people attending the immediately adjoining equestrian facility. It can be occupied by users of the existing facility and, in this context, I see no reason to object to a revised access arrangement, subject to consideration of its layout.

### **7.3. Layout**

- 7.3.1. The access is set back from the nearside edge of the road by approx. 2.5m and is enclosed on both sides by an earthen bank and trees. Site layout drawing No. 02 identifies that visibility splays of 2.4m x 45m (eastward) and 2.4m x 70m (westward) can be provided along the L5812 from the access.
- 7.3.2. The Planning Authority report stated that in view of the infrequent use of the road, the splays are acceptable. I agree with the Planning Authority's conclusion in this respect. There is limited development on the lane and traffic flows are likely to be low and there is also a sharp bend c.40m west of the access, which requires west-bound traffic to slow.
- 7.3.3. I also observed when on the site that, in view of the setback nature of the access, the identified sightlines are not impeded by any of the mature trees along the road edge, which has the effect of limiting its visual impact and impact on the character of the area.
- 7.3.4. In view of foregoing, I consider the layout of the access is acceptable.

### **7.4. Drainage**

- 7.4.1. The appellant states that surface waters draining onto the road are added to by those draining from the subject site and that the proposed surface water drainage system involves development on third party lands which cannot be controlled as part of the development
- 7.4.2. The applicant states that the County Council undertook drainage improvement works along the road approx. 3 years ago and refers to site layout drawing No. 3, which is stated to have been submitted at the additional information stage and which identifies the drainage network along the road. I can see no reference to this drawing in the application or appeal documents, but I note that a copy was provided as Appendix 2 of the first party appeal submission. The drawing indicates that a

manhole was installed to the north-east of the site and that a surface water pipe was laid along the road, which will be connected to by gullies on both sides of the site access and elsewhere on the road. I am unclear as to whether gullies have been provided to date, as site layout drawing No. 3 states that they are existing but the photograph images provided with the appeal response indicate that they have not yet been installed. Notwithstanding this uncertainty, there is evidently an ongoing attempt to improve drainage along the L5812.

7.4.3. The applicant proposes to drain all surface waters from the site to an open drain that is south-east of the site and which is connected to the site by an existing pipe. The applicant further states that the open drain was inspected by the County Council and was deemed to be adequate to accommodate run-off from the site.

7.4.4. The appellant is correct in stating that the drainage pipe is shown to route through third-party lands, but the Board will note that it is existing and the applicant has provided photograph evidence to this effect. This pipe does not form part of the subject development and I note that it was identified on drawings submitted with application Reg. Ref. 13/50339 (ABP Ref. PL 09. 242010) and was identified as the discharge point for all water from the site.

7.4.5. The surface water drainage system in place for the site is approved and I am satisfied that the subject development will have a minor effect, if any, on drainage patterns along the road. I note in this respect that the applicant indicates that gullies are also to be provided on both sides of the access, which will have the effect of further reducing surface waters along the road. The Planning Authority did not object to this aspect of the development and I see no reason to object to it.

## 7.5. **Appropriate Assessment**

### Appropriate Assessment Screening

#### *Compliance with Article 6(3) of the Habitats Directive*

7.5.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

#### *Background on the Application*

7.5.2. A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

*Screening for Appropriate Assessment- Test of likely significant effects*

7.5.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

7.5.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

*Brief description of the development*

7.5.5. The development is described at Section 2 of this Report. In summary, permission is sought for retention of an existing vehicular entrance and including associated site works, on a site with a stated area of 0.2ha.

Submissions and Observations

7.5.6. The submissions from the appellant, applicant and Planning Authority are summarised at Section 6 of my Report.

European Sites

7.5.7. Lough Swilly SAC (Site Code 002287) and SPA (Site Code 004075) are located c.2km south-east (the designations also encroach to within c.2.5km to the north) and the Leannan River SAC is c.2.2km north. There are other European sites within a 15km search zone, but in view of the smallscale nature of the development, I am satisfied that there is no possibility of significant effects arising for any European sites, other than those in close proximity to the site.

7.5.8. Regarding Leannan River SAC, available EPA drainage maps identify the surface waters in the area of the site drain in a northward direction, draining into Lough Swilly east of Ramelton and within Lough Swilly SAC/SPA. The site is in a different hydrological catchment to the Leannan River SAC and on this basis I am satisfied that there is no possibility of significant effects on the European site.

7.5.9. Regarding Lough Swilly SAC/SPA, there is a possibility that suspended solid or pollutant content may enter the roadside drainage network (the exact route of the network is unclear) and thereafter drain in the direction of Lough Swilly but as I have previously stated, the site is c.2.5km from the European sites following the drainage route and it is unlikely that any pollutants would be transferred to the European sites. Indeed, in the unlikely event that a discharge from the site was transferred to the European sites, the quantity is unlikely to be of such a scale that significant effects would arise. I am therefore satisfied that there is no real likelihood of significant effects on the European sites, given the separation distance between sites.

#### *Screening Determination*

7.5.10. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site No. 004075 or 002287, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

8.1. I recommend that permission for retention be granted, subject to conditions as set out below.

## **9.0 Reasons and Considerations**

Having regard to the nature and scale of the development to be retained and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the development is in keeping with the character of the area, would not result in the creation of a traffic hazard and would not increase the risk of surface water flooding in the area. The development would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be retained in accordance with the plans and particulars lodged with the application, as amended by additional information provided on 21<sup>st</sup> March 2022, 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>
2.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>

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Barry O'Donnell  
Planning Inspector

14<sup>th</sup> September 2022.