



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313641-22

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<b>Development</b>	Erection of an extension to existing dwelling house, erection of a domestic garage and the upgrading of existing treatment system.
<b>Location</b>	Carrick, Derrybeg, Letterkenny Po, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2152082
<b>Applicant(s)</b>	Dympna Haughian
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Mairead Harkin.
<b>Observer(s)</b>	Hughie Harkin
<b>Date of Site Inspection</b>	15 <sup>th</sup> September 2022
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

- 1.1. The 0.234ha appeal site lies in the townland of Carrick, c.3.5km to the north of Derrybeg, County Donegal. It lies to the west of the R257 a regional road between Derrybeg and Meenalargh. Access to the site is via a narrow, minor private road off the regional road. This minor road is a cul-de-sac and serves 5 no. residential dwellings including the appeal site. The property to the west of the appeal site also has access from the north. Sightlines at the junction of the access road and R257 are restricted in both directions due to the alignment of the public road and roadside structures.
- 1.2. The appeal site comprises a modest residential dwelling (ridge height c.4m), its curtilage and part of the agricultural field (pasture) to the rear of the dwelling. The dwelling did not appear to be occupied at the time of site inspection. A small shed lies to the east of the dwelling. To the east of the appeal site is a residential property. Its gable end faces the appeal site.

## 2.0 Proposed Development

- 2.1. The proposed development, as revised by way of significant further information (advertised on 31<sup>st</sup> March 2022) comprises an extension to the west of the existing dwelling house (60sqm) to provide a second bedroom on the ground floor (20sqm), construction of small porch to front door, upgrading of the existing wastewater treatment system and erection of domestic garage (86.5sqm, 5.9m high).
- 2.2. The proposed wastewater treatment system comprises a secondary treatment system (mechanical aeration) with soil polishing filter. It has been designed following site assessment (see file). The proposed domestic garage is situated c.18m to the south (rear) of the existing dwelling and is finished in block walls with render. The structure will be used for the storage of domestic items e.g. camper van, car, small trailer etc. and general household storage. Access to the garage will be via the existing access between the dwelling and small shed. Water supply is from an existing connection to the public water main. Surface water will be discharged into a watercourse (land drain) to the south of the site.

2.3. The applicant is purchasing the property from the owner subject to planning permission for extension and domestic shed.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 28<sup>th</sup> April 2022 the PA decided to grant permission for the development subject to 4 no. conditions, including under C2(a) relocation of shed further north along the eastern boundary, C3(a) restricting use of the garage to domestic purposes ancillary to the residential use and roller shutter door to face parent dwelling.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- 30<sup>th</sup> November 2021 – Planning Report – Considers the merits of the development under a number of headings including principle, siting and design, access, public health and appropriate assessment. It considers the residential extension and upgrading of the existing treatment system to be acceptable and that no issues arise in respect of appropriate assessment. The report raises concerns in respect of the need for the proposed shed, its use, size and location on the site, given the planning history of the site and proximity to neighbouring residential development and the location of the existing effluent treatment system which serves adjoining housing granted under PA ref. 15/50629. The Report recommends FI requiring the removal of cladding (all walls to be block construction), reduction in width of shed, relocation on site in northerly direction, adjacent to eastern boundary, location of percolation area to serve existing dwelling, revisions to access road to serve relocated shed, justification on need for the shed (ancillary to domestic use) and applicant's legal interest in the site.
- 7<sup>th</sup> March 2022 – Planning Report (subsequent to FI) – Recommends that the applicant erect/publish new notices under article 35. Considers that the applicant has not adequately responded to the request for FI and

recommends that the shed be placed further north within the site adjacent to the eastern boundary.

- 19<sup>th</sup> April 2022 – Refers to the revised notices and submission made by a third party and addresses the matters raised (landowner detailed, consent submitted, domestic garage ancillary to existing dwelling, no permission sought for holiday home, renovation of existing property no occupancy assessment required, right of way outside planning system, revised design acceptable). Recommends granting permission for the development subject to conditions.

### 3.2.2. Other Technical Reports

- Roads and Transportation (26<sup>th</sup> October 2021) – No objections. Recommends standard conditions.
- EE Roads (10<sup>th</sup> November 2021) – Refers to the above report.

### 3.3. Prescribed Bodies

- None.

### 3.4. Third Party Observations

3.5. There is one third party observation on file by the appellant:

- Applicant is not the owner of the site, name used by developer on a number of occasions.
- Developer has no access to right of way and has already built on his right of way.
- Right of way insufficient to carry construction traffic.
- Inadequate sight lines at junction with R257 and precedent set by Board's previous decision (PA ref. 20/51022).
- If applicant is not a permanent resident, development would exceed quota for permanent v holiday homes in the townland.

- Development, >5m high, looks like a commercial building and would not blend in with other buildings in the area.

## 4.0 Planning History

4.1. The following planning applications have been made in respect of the appeal site:

- PA ref. 2050587 – Planning application for erection of a machinery storage shed on land comprising part of the appeal site (to south of existing dwelling). Planning application incomplete.
- PA ref. 2051022 and ABP-309250-21– Permission refused for machinery storage shed on the appeal site, to the south of the existing dwelling on the grounds of traffic hazard (restricted sightlines at junction of minor road with R257).

4.2. The following planning applications have been made in the vicinity of the site:

- PA ref. 1350706 – This planning application was made in respect of a dwelling to the east of the dwelling to the east of appeal site. Retention was granted for (a) the erection the of house slightly repositioned to the south from that previously granted under PA ref. 03/3015 and (b) for existing domestic shed located to rear of the house and permission was granted to relocate septic tank and percolation area to serve dwelling house. The percolation area was proposed in the area of the subject domestic garage.
- PA ref. 1550629 – This planning application was made in respect of the site to the east of the appeal site, south of the dwelling to the east of the appeal site. Permission was granted for the upgrading of the septic tank wastewater arrangements serving the two dwellings to the east of the appeal site (see Site Layout Plan submitted for Proposed Upgrading Septic Tank, drawing no. 01, April 2015 – submitted by applicant to PA on 3<sup>rd</sup> March 2022). Under this arrangement the percolation area for the wastewater treatment system serving the two houses was relocated to the south of the dwelling to the east of the appeal site. Surface water is directed away from the percolation area to a land drain to the south of the site.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The appeal site lies in an Area of High Scenic Amenity. These 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'*.
- 5.1.2. In Areas of High Scenic Amenity policy NH-P-7 applies *'to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape'*.
- 5.1.3. The appeal site is situated in a Structurally Weak Rural area. Policies in respect of rural housing apply in this area (RH-P-4) and in respect of proposals for refurbishment of existing dwellings (RH-P-6).

### 5.2. Natural Heritage Designations

- 5.2.1. Approximately 525m to the west of the appeal site, the coast is designated as:
- Special Protection Area (SPA), West Donegal Coast SPA (site code 004150),
  - Special Area of Conservation (SAC) and proposed Natural Heritage Area (NHA), Gweedore Bay and Islands pNHA and SAC (shared site code 001141).

### 5.3. EIA Screening

- 5.3.1. Having regard to the location of the proposed development within a settlement structure, the modest nature and scale of the proposed development, it would not result in a real likelihood of significant effects on the environment. 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. Grounds of appeal are as per those raised in observations. Matters can be summarised under the following headings.

- Bona fides of applicant.
- Precedent set by the Board under PA ref. 20/51022.
- Legal entitlement to right of way.
- Traffic issues - Adequacy of access for construction traffic and sightlines with R257.
- Visual impact.
- Compliance with housing policy.

### 6.2. Applicant Response

- Letter of consent from registered owner provided deemed acceptable by the PA.
- Right of way travels through three folios to reach the site. One is registered to the applicant's wife. Applications for prescriptive ROWs are on-going in respect of incorrectly registered ROWs.
- ROW is sufficient to accommodate domestic traffic including bin lorries, oil lorries. It has benefited from Local Improvement Scheme grant aid in the past.
- The development will not cause any increase in traffic using the entrance.
- No reference to use of dwelling as a holiday home. There is an existing dwelling on site and no requirement to assess existing or proposed occupancy.
- Development has been amended (external materials, roof pitch) to blend in with existing. Other more commercial buildings lie to the immediate east and west of the site.

### 6.3. Planning Authority Response

- Landowner has been detailed and relevant consent submitted.
- No material issues in respect of traffic arise. Development strictly considered as domestic garage. No intensification proposed.
- No occupancy condition required as development is renovation of an existing property.
- Rights of way are matters for the Courts.
- Location and design of garage have been revised and, akin to a domestic structure and removed from percolation area of adjoining properties, is acceptable.

### 6.4. Observations

6.4.1. There is one observation on file. It raises the following issues:

- Development is an industrial scale shed that was previously refused. Extension of dwelling could be done without planning permission (<40sqm) and could utilise existing septic tank.
- Inadequate explanation of need for development. Existing domestic shed in the curtilage of the dwelling.
- Lack of clarity regarding applicant and links to area.
- Impact of shed on amenity of houses in area (little open space left to serving cluster).
- Impact of shed on amenity of existing house, if moved nearer as per condition of PA. Haphazard form of development, poorly integrated with existing development.
- No evidence of entitlement to right of way.
- Traffic hazard. Inadequate sight lines, use of junction with R257 by large vehicle, intensification of use, no right to upgrade laneway. Inadequate access for camper van to access site (between dwelling and shed).

- Impact on public health. Inadequate site assessment, outdated, no reference to existing development/septic tanks etc., location of shed on de facto percolation area.

## 6.5. Further Responses

- None.

## 7.0 Assessment

7.1. Having examined the policy context of the development, application details and all other documentation on file, and inspected the site, I consider that the main issues in this appeal relate to:

- Compliance with housing policies.
- Visual impact/impact on residential amenities.
- Traffic issues.
- Public health.

7.2. In addition, I comment briefly on the following issues:

- Bone fides of the applicant. The application has been brought forward by the applicant with the written permission of the landowner.
- Precedent. Under ABP-309250-21 (PA ref. 2051022) the Board refused permission for a machinery storage shed on the appeal site on the grounds of traffic safety, inadequate sightlines at existing junction with the R257. The proposed development is for a domestic shed which at 86.5sqm is smaller than the previously proposed c. 176sqm machinery storage shed. The proposed use and size of the structure has materially changed and I consider that the development should be assessed on its own merits.
- Right of way. The applicant asserts a right of way of the private access road from the R257 to the appeal site and the appellant and observer deny that such a right exists. Resolution of this matter lies outside the scope of the planning system and is a matter for the Courts. Further, planning permission

does not convey, of itself, a right to develop lands and other codes must also be complied with.

### **7.3. Compliance with housing policies.**

- 7.3.1. The appeal site comprises an existing property. At the time of site inspection, the property did not appear to be occupied or in good condition. The existing structure is modest in size and as stated by the applicant, the septic tank is longstanding and does not comply with the current code of practice in respect of wastewater treatment for single houses.
- 7.3.2. Policy RH-P-6 of the County Development Plan refers to the 'Refurbishment of Existing Dwellings/Buildings'. It states that it is the policy of the Council to consider proposals for the refurbishment of derelict buildings within rural areas for uses as either a permanent home or holiday home, subject to certain criteria being satisfied (see attachments). Derelict buildings are defined as where external walls are intact. The existing building falls within this broad definition i.e. external walls are intact and the proposed development, providing an extension to the building and upgrading of the existing wastewater treatment system, would provide for its refurbishment. I am satisfied therefore that the proposed development complies with housing policies of the County Development Plan and that there is no requirement for the applicant to demonstrate rural housing need or to clarify whether the use of the dwelling is as a permanent home or holiday home.
- 7.3.3. Criteria for the assessment of proposals for refurbishment of existing dwellings, set out in Policy RH-P-6, include that the development provides for the retention of the majority of the existing structure, the development would integrate effectively with the host environment, wastewater can be treated and disposed of, there is no road safety impediment, proposals demonstrate compliance with policy RH-P-1 and RH-P-2 (relate to matters of siting, design, impact on receiving environment, flood risk, impact on protected areas, public health etc.) and extensions do not exceed 50% of the original building size and design of refurbishment/extension respects the architectural character of the existing.
- 7.3.4. The proposed development provides for a small extension to the existing dwelling and is consistent with criteria requiring retention of the majority of the structure,

relative size of extension and consistency with existing architectural character. No issues arise either in respect of flood risk. Issues in respect of visual impact, traffic safety and public health are considered below.

#### **7.4. Visual impact/impact on residential amenity.**

- 7.4.1. The proposed development lies within a cluster of residential properties, served by the private access road from the R257 and sitting adjacent to the R257. The proposed residential extension is modest in scale, subservient to the existing structure and consistent with it in terms of architectural style and finish. No issues in respect of visual impact, impacts on residential amenity or landscape character arise.
- 7.4.2. The pattern of development in the area of the site is one where domestic sheds are situated within the curtilage of the residential properties. This is indicated in the applicant's Site Layout Plan (Drawing no. 03 Rev 01) and was evident during inspection of the site (see for example, Photograph no. 11). The proposed domestic garage is situated within the existing cluster of properties and does not extend the existing envelope of development or therefore seriously erode open space.
- 7.4.3. The proposed domestic garage has an area of 86.5sqm and a ridge height of 5.897m. In contrast with other examples in the area, the size of the shed exceeds the size of the extended dwelling which is 80sqm in area and has a ridge height of 4.155m. The structure is proposed 18m to the south of the existing dwelling and, unlike other examples in the area, is somewhat removed from it. Condition no. 2(a) of the PA grant of permission requires that the structure be sited further north on the site, along its eastern boundary such that it is closer to the parent dwelling i.e. such that that the rear wall (southern gable end) does not extend beyond the building line of the existing dwelling to the east of the shed (assume southern elevation of property to east).
- 7.4.4. As a domestic garage, I consider that the proposed structure should be sited in relative proximity to the existing dwelling it serves and should be subservient to it in scale and form in the interest of visual amenity, landscape character and the residential amenity of adjoining properties. If the Board are minded to grant permission for the development, I would recommend that a condition of the

permission be the relocation of the garage closer to the existing dwelling (as proposed by the planning authority) and a reduction in scale such that the garage is subservient to the scale and form of the existing dwelling. In coming to this conclusion I understand that the average external dimensions of a large box-van campervan are up to 250cm in width, 350cm in height and 780cm in length. This contrast to the internal size of the shed as 740m in width, 400cm in height and 1170cm in length.

- 7.4.5. Further, a reduction in the scale of the building, locating it 2m from the adjoining boundary to the east and landscaping of the shared boundary will remove adverse effects on the amenity of the adjoining property.

## 7.5. **Traffic Issues**

- 7.5.1. As stated previously and acknowledged by the board in their decision to refuse permission under ABP-309250-21, sightlines at the junction of the private access road and the regional road are poor in both directions. Notwithstanding this, domestic traffic associated with the residential properties along the access lane utilise the junction and the residential use of the proposed development would not add considerably to it. Whilst not ideal, this would include occasional use of the access lane by a camper van, associated with the domestic use of the property. I note that the width of the access between the subject dwelling and existing shed is c.3.5m which should be sufficient to allow a camper van to obtain access to the proposed garage.
- 7.5.2. As stated sightlines at the junction of the public and private road are restricted and the private access lane to the site is narrow with limited capacity to accommodate large vehicles, including construction vehicles. However, the proposed development is relatively modest in scale and construction works would be short term. If the Board are minded to grant permission for the development, this matter could be addressed by condition to safely manage short term effects.

## 7.6. **Public health.**

- 7.6.1. The applicant's site assessment was carried out in 2014. Whilst it is outdated, development in the area and the ground conditions of the site appeared unchanged

and the conclusions of the site assessment, are also therefore unlikely to have changed. Further, at the time of site inspection the ground on the appeal site appeared dry underfoot with no evidence of water ponding etc. to contradict the findings of the site assessment.

- 7.6.2. The appellant argues that the proposed garage is in the location of the percolation area and/or natural drainage area for the septic tank serving dwellings to the east of the appeal site. However, it is evident from the planning history of the adjoining lands that the two properties to the east of the site are served by a common septic tank and percolation area to the east of the appeal site, with surface water directed away from the percolation area (see Site Layout Plan, Proposed Upgrading Septic Tank at Carrick, Derrybeg, Co. Donegal, Drawing no. 01, April 2015, submitted with FI). The appeal site therefore does not form part of the percolation area for the treatment systems of the adjoining dwellings.
- 7.6.3. Further, I note that the separation distances is consistent with the minimum distances set out in the EPAs Code of Practice for Domestic Wastewater Treatment Systems<sup>1</sup> (EPA, 2021) and surface water is directed away from the percolation area.

## 8.0 **Appropriate Assessment**

- 8.1. Having regard to the modest nature of the proposed development and its distance from European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not 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. I recommend that permission be granted for the proposed development subject to conditions.

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<sup>1</sup> NB Table 6.2 of EPA Guidelines requires 10m between treatment area and on-site dwelling house. No minimum distances are given for domestic structures e.g. garage.

## 10.0 Reasons and Considerations

Having regard to the domestic nature of the proposed development and its location within a residential cluster, and subject to compliance with the conditions set out below, it is considered that the proposed development would not detract from landscape character or seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety and public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 3rd day of 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>Prior to the commencement of development, revised details shall be submitted to the planning authority for written agreement. These shall provide for:</p> <p>(a) The siting of the domestic garage further north within the site, and</p> <p>(b) A reduction in size of the domestic garage,</p> <p>The revised domestic garage shall be associated with and subservient in scale and form to the existing dwelling house (as extended).</p> <p>The building line of the rear wall of the garage (southern elevation) shall not extend beyond the building line of the dwelling to the east of the site</p>



	<p>(southern elevation) and shall provide a 2m separation distance between the garage and adjoining boundary to the east.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>Prior to the commencement of development, a Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority, to provide details of traffic management during construction.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
4.	<p>(a) The domestic garage shall be used solely for domestic purposes ancillary to the residential enjoyment of the parent dwelling house. It shall not be used in the absence of domestic use of the property.</p> <p>(b) The front elevation of the garage, containing roller shutter door, shall face north towards the parent building.</p> <p>(c) Roof shall be blue/black slates/tiles and external walls shall be render finish painted white or as otherwise agreed with the planning authority in writing.</p> <p><b>Reason:</b> In the interest of visual amenity and traffic safety.</p>
5.	<p>Surface water from the site shall not be permitted to drain onto the adjoining public road.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
6.	<p>(a) The secondary treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 20<sup>th</sup> day of October 2021, and in accordance with the requirements of the document entitled “Code of Practice for Domestic Waste Water Treatment Systems” Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p>

	<p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>(e) Within three months of the first occupation of the dwelling, subsequent to the upgrading of the wastewater treatment system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include additional planting along the eastern side of the site to provide a visual barrier with the adjacent dwelling.</p> <p>Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity and biodiversity.</p>

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Deirdre MacGabhann

Planning Inspector

28<sup>th</sup> September 2022