



An
Bord
Pleanála

Inspector's Report

ABP-314245-22

Development	Construction of house extension consisting of 10 ensuite bedrooms and all associated works to facilitate use as student accommodation
Location	Oakland Park, Letterkenny, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2250193
Applicant(s)	Laura Black
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Anne O'Kane, David, Anne and Jean Stevenson.
Observer(s)	None
Date of Site Inspection	2 nd February 2023.

Inspector

Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.1ha and is located at Oakland Park, in the Ballyraine area of Letterkenny. The site contains a detached one-and-a-half-storey, seven-bedroom house and its attendant garden. It is enclosed on all sides by mature trees and hedging.
- 1.2. Although the given site address is Oaklawn Park, the site is accessed from the Ashlawn estate. Ashlawn is a low-density development of detached and semi-detached houses that is accessed from primarily from Gortlee Road but which also has a secondary access from the R940 Ballyraine Road. The Gortlee Road access is a wide priority junction, whereas the R940 is narrow, signal controlled junction.
- 1.3. The Atlantic Technological University Donegal campus is located on the opposite site of the R940 Ballyraine Road.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises a house extension containing 10 No. en-suite bedrooms and associated works, to facilitate student accommodation.
- 2.2. The proposal was revised at the AI stage, where it was reduced to a 5-bedroom extension.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 21st July 2022, subject to 10 No. conditions.

Condition 2(a) required submission of revised plans showing accurate annotation of bedrooms and living areas for the existing house.

Condition 3 required the extension to be used as a sub-let for student accommodation purposes only.

Condition 5(a) required the refuse and recycling area to be relocated to the north-east corner of the site.

Condition 10 required payment of a financial contribution of 1,520 under the adopted development contribution scheme.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports dated 29th March 2022, 7th June 2022 and 19th July 2022 have been provided, which reflect the decision to grant permission. The first report states that the principle of development is acceptable in this location, but concerns are expressed regarding the proposed scale which is stated to be indicative of overdevelopment. Concerns are also expressed regarding the adequacy of communal facilities, which are to be shared with the existing house that is also stated to be in use as student accommodation. The report recommends a request for AI in respect of the identified issues. The AI requests that the proposal should be reduced to a single storey extension of 4-5 study bedrooms, shared living/dining area, laundry/storage facility and external amenity space. The applicant was also requested to clarify existing parking arrangements on the site.
- 3.2.2. The second report followed receipt of the AI response. It summarises and responds to the AI response items and expresses satisfaction that the revised scheme addresses identified concerns. The report recommends that the application should be required to publish new public notices, in accordance with Article 35 of the Regulations.
- 3.2.3. The third report followed a period of further public consultation, following the publication of new public notices. It summarises and responds to additional submissions received and recommends that permission be granted, subject to 10 No. conditions, which are consistent with those attached to the Planning Authority's decision.
- 3.2.4. Other Technical Reports
- A **Building Control** report dated 21st February 2022 has been provided, which recommends conditions as part of a grant of permission.

A **Municipal District Engineer** report dated 9th March 2022 has been provided, which recommends conditions as part of a grant of permission.

The Planning Report indicates that the **Roads Department** and **Fire Officer** were also consulted on the application but not comment on it.

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 objections were received, the issues raised within which can be summarised as follows: -

- Public notices and application form,
- Scale, design and finishes,
- Residential amenity,
- Visual impact,
- Inappropriate use,
- Noise and anti-social behaviour,
- Nuisance during construction
- Waste management,
- Road safety and parking,

3.4.2. A number of additional submissions were received as part of a period of further public consultation. Additional issues raised can be summarised as follows: -

- Site ownership,
- Devaluation of property
- Potential loss of mature landscaping on shared boundary.

4.0 Planning History

4.1. I did not encounter any recent planning records pertaining to the site.

Relevant nearby planning records

2250764: (ABP Ref. ABP-314417-22) - *105 Ashlawn* - Current appeal relating to the refurbishment and extension of an existing house.

5.0 Policy Context

5.1. Donegal County Development Plan 2018-2024

5.1.1. Part C of the development plan contains objectives and policies for the towns within the county, including Letterkenny. It also includes land-use zoning maps for each of the towns, with Map 12.1B relating to Letterkenny.

5.1.2. The subject site is identified on the zoning map as subject to the 'Established Development' zoning, with an objective '*To conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement subject to all relevant material planning considerations, all the policies of this Plan, relevant National/regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area.*'

5.1.3. Section 6.2 of the development plan contains policies and objectives in relation to urban housing. The following are relevant to the subject appeal: -

UB-P-12: It is the policy of the Council both 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.

5.1.4. Two car parking spaces per house are required based on Table 6 in Appendix 3 of the Development Plan.

5.2. **Natural Heritage Designations**

5.2.1. The site is not located within or adjacent to any designated European site, the closest such site being Lough Swilly SAC (Site Code 002287), which is c.1km east.

5.3. **EIA Screening**

5.3.1. The subject development an extension within the curtilage of 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**

6.1.1. Separate third appeals have been received from Anne O’Kane and David, Anne and Jean Stevenson. The grounds of appeal are summarised separately below: -

Appeal by Anne O’Kane

- The application should have been invalidated as the site’s address is incorrectly stated.
- Road safety and traffic
 - Traffic management is a problem in the area. The development has a potential occupancy of 17 people and a requirement for up to 11 parking spaces, which cannot be provided. The Board refused Ref. ABP-309892-21 on grounds related to the creation of a traffic hazard.
 - Walking and cycling to Atlantic Technological University (formerly Letterkenny IT) is a safety concern as the Ashlawn access is substandard, incorporating no footpath and poor lighting.
 - The applicant has not outlined how construction traffic will be managed.
- Residential amenity

- The proposed extension is contrary to the emerging Letterkenny Plan, which prioritises neighbourhoods that are well-connected, accessible and age-friendly.
- The proposal is contrary to objective UB-P-12 of the development plan.
- The site does not serve the needs of students and will affect the amenity of adjacent residents arising from socialising and associated noise, waste and anti-social behaviour

Appeal by David, Anne and Jean Stevenson

- The development has the potential to lead to anti-social behaviour.
- The revised plans increased the bedroom capacity of the existing house, increasing the number of bedrooms by 2. This is considered to be adequate for the site, without the need for an extension.
- The incorporation of black metal cladding will spoil the appearance of the house and will resemble a commercial building.
- Notwithstanding condition 3 of the Planning Authority's decision, the extension has the potential to be used for other purposes that are not in keeping with the residential surroundings.
- Car parking is an issue.
- Concerns regarding the stated address of the site were not addressed by the Planning Authority.
- The site notice was not displayed correctly and was obscured by an overhanging hedge.
- Copies of submissions made to the Planning Authority are appended to the appeal.

6.2. Applicant Response

6.2.1. None received.

6.3. **Planning Authority Response**

- 6.3.1. The Planning Authority made a submission on the appeal on 31st August 2022, which advised that the majority of issues raised within the appeals were addressed by the various Planning Reports. The submission also references the national student accommodation shortage and the site's proximity to the ATU campus.

6.4. **Observations**

- 6.4.1. None.

7.0 **Assessment**

- 7.1. Having inspected the site and considered the contents of the third-party appeals in detail, the main planning issues in the assessment of the proposed development are as follows:

- Principle of development;
- Design and residential amenity;
- Impact on neighbouring property;
- Access and parking;
- Other issues; and
- Appropriate Assessment.

7.2. **Principle of Development**

- 7.2.1. The proposed development comprises a house extension containing 10 No. en-suite bedrooms and associated works, to facilitate use of the house as student accommodation.
- 7.2.2. The Donegal County Development Plan 2018-2024 does not distinguish between traditional housing and student accommodation, but the Planning and Development Act 2000 distinguishes between both uses, defining student accommodation as follows: -

"student accommodation" means a building or part thereof used, or to be used, for the sole purpose (subject to paragraph (b)) of providing residential accommodation

to students during academic term times, whether or not provided by a relevant provider (within the meaning of the Qualifications and Quality Assurance (Education and Training) Act 2012), and that is not used, or to be used,—

(a) as permanent residential accommodation, or

(b) as a hotel, hostel, apart-hotel or similar type accommodation other than for the purposes of providing residential accommodation to tourists or visitors outside of academic term times’.

7.2.3. The subject site is zoned ‘Established Development’ under the development plan, with an objective ‘*To conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement subject to all relevant material planning considerations, all the policies of this Plan, relevant National/ regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area.*’

7.2.4. The site is in close proximity to the Atlantic Technological University Donegal campus, which is on the opposite side of the R940 Ballyraine Road, and is also proximate to the town centre. In this context, I am satisfied that the use of the subject site for student accommodation purposes is consistent with the zoning and conclude that the development is acceptable in principle, subject to consideration of other relevant factors below.

7.2.5. The appellant Anne O’Kane argues that the proposed extension is contrary to the emerging Letterkenny Plan 2023-2029. The Letterkenny Plan and Local Transport Plan 2023-2029 is currently at the draft stage and I note from the Planning Authority’s website that public consultation on the draft plan closed on 17th February 2023. As the plan remains in the preparation phase it can be given little weight in the assessment of this appeal. I note in any case that there are policies within the development plan which deal with the issues raised in the appeal, in particular the preservation of amenities.

7.3. Design and Residential Amenity

7.3.1. The proposed extension was revised at the AI stage, in relation to its external design and massing and the number of proposed bedrooms. The revised design has a

stated gross floor area of 190sqm and incorporates a storey and a half design, projecting from the northern side of the house by approx. 10.3m. It has a similar design and massing to the existing house and its ridge is set slightly below the existing ridge. Internally the extension provides a kitchen/living/dining room, laundry/utility room, WC and 3 No. en-suite bedrooms at ground floor level, together with 2 No. bedrooms and a shower room at first floor level. A waste segregation and recycling area is proposed to the rear of the extension.

- 7.3.2. Policy UB-P-27 of the development plan states that house extensions should reflect and respect the scale and character of the host house and the wider settlement. The proposed extension is large in the context of the size of the existing house (the gross floor area of the existing house is unstated), but I do not object to its scale. The site is not located within an architectural conservation area and the plot is well concealed on its north and east boundaries by dense foliage, such that the extension will not be a prominent addition to the street. Further, the extension is maintained at or below the ridge of the existing house and its mass is largely concealed from public views. I am satisfied that the design and scale are in accordance with the requirements of policy UB-P-27.
- 7.3.3. The elevation drawings depict a palette of materials that includes the use of black corrugated cladding but I am unsure as to whether this is proposed as a roofing material or an elevational treatment. For completeness, the applicant should be required to agree the proposed finishing materials with the Planning Authority prior to the commencement of development.
- 7.3.4. The proposed garden area retained is unstated but I estimate from the site layout drawings that it is of the order of c.250sqm (based on the L-shaped garden to the rear and south side of the existing house). The area retained is narrow but on balance it provides for an adequate level of practical usability for future occupiers.
- 7.3.5. Regarding the internal layout, the development plan does not specify any minimum standards for student accommodation developments and, in this context, I note that the Planning Authority gave consideration to the Department of Education and Science publication *Guidelines on Residential Developments for 3rd Level Students* (published pursuant to Section 50 Finance Act 1999) in its consideration of the application and considered the revised layout to be acceptable. The proposed

bedrooms each occupy an area of between 15.1sqm and 21.8sqm (ground floor bedroom 1 is shown to be wheelchair accessible) and each room is shown to be provided with a dedicated study space. The proposed kitchen/living/dining room has a stated area of 29.85sqm.

- 7.3.6. The proposed extension is functionally connected to the existing house. Taken together, the house will contain 12 No. bedrooms, 2 No. kitchen/living/dining areas and a separate dining room. The living accommodation is stated to have a combined floor area of c.100sqm but I would question whether this is the case as, based on the floor plan drawing, the combined living area appears to measure c.65sqm. The total number of bedspaces provided is unstated but using the 1999 guidelines it appears that up to 17 bedspaces could be provided and, in this context, I consider the overall provision for living space within the extended house is inadequate. I recommend that a ground floor double bedroom should be required to be provided as additional living accommodation for the use of future residents. This can be controlled by condition in the event of a grant of permission.

7.4. Impact on Neighbouring Property

- 7.4.1. I am satisfied that overshadowing issues do not arise, in view of the proposed design and height of the proposed extension.
- 7.4.2. First floor bedroom 4 within the extension contains 2 rear-facing windows which may allow angled views of rear adjoining gardens, but I do not consider the level of such overlooking would be unacceptable. For the rear gardens of properties on Ballyraine Road any available view would be of the rear-most part of the garden whilst for the rear-adjoining house within Oaklands Park, the leylandii trees on the shared boundary are likely to impede any angled view available.
- 7.4.3. Should the Board decide to grant permission, I recommend a condition be attached requiring that the leylandii tree along the north site boundary should be retained, in order to protect the adjoining property from overlooking.
- 7.4.4. The appeals both express concern that the development will affect the amenity of adjacent residents arising from socialising and associated noise, waste and anti-social behaviour. I acknowledge that noise and anti-social behaviour would be disruptive to residential amenity in the area, but I do not see that such issues are an inevitable consequence of the proposed development. In any case, there is recourse

to enforcement under separate codes for these issues, should they arise. I do not consider it would be justified to refuse permission for the proposed development on the basis of these concerns.

7.5. Access and Parking

- 7.5.1. The subject site forms part of the Ashlawn estate. Ashlawn is accessed primarily from Gortlee Road, to the north of the site, but there is a secondary access to the south, from the R940 Ballyraine Road. The Gortlee Road access is a wide priority junction, whereas the R940 is narrow, signal controlled junction. There are double yellow lines on both sides of the road in the area of the site.
- 7.5.2. The appellants each express concern regarding the condition of the road network within the estate and its ability to accommodate the proposed development. The condition of the access from the R940 and parking issues within the estate are identified as particular issues.
- 7.5.3. I share the appellant concerns regarding the condition of the R940 access, which is narrow and provides limited forward visibility. However, in saying this, it is evidently not the primary access to the housing estate and I am satisfied that the Gortlee Road access is adequate to accommodate development traffic.
- 7.5.4. Regarding parking, the development plan does not specify any minimum or maximum parking requirement for student accommodation. The thrust of national planning policy is that parking standards in urban areas should be based on performance criteria, in order to achieve targeted growth and in this instance, Ashlawn is located adjacent to the Atlantic Technological University and is within walking distance of the town centre. In this location I consider it is adequate to provide parking at a rate of 1 space per 5 bedspaces (which is akin to the development plan parking requirement for a hostel) and I am satisfied that this can be controlled by condition.
- 7.5.5. In view of the rate of parking on the site, which I acknowledge is low for the population density on the site, I consider it is important that a parking and mobility management plan should be implemented for the site, which should include proposals for the provision of safe bicycle storage facilities for residents and other measures that reduce the need for private car use. This can be controlled by condition.

7.5.6. I acknowledge concerns regarding parking within the wider Ashlawn estate but I am satisfied that there are powers available to the Planning Authority to address illegal parking.

7.5.7. To conclude, I am satisfied that there is a safe means of vehicular access to the site, from Gortlee Road and that a parking rate of 1 space per 5 bedspaces would be adequate, subject to implementation of a parking and mobility management plan

7.6. **Other Issues**

7.6.1. The appellants express concern regarding details provided with the application, with reference to the application form and public notices. Validation is a matter for the Planning Authority, which is responsible for this aspect of the application, and this is not an issue which can be taken into consideration by the Board in its consideration of this appeal.

7.6.2. The appeal by David, Anne and Jean Stevenson expresses concern that notwithstanding condition 3 of the Planning Authority's decision (which limits usage to student accommodation), the extension has the potential to be used for other purposes that are not in keeping with the residential surroundings. The matter of planning enforcement is a matter for the Planning Authority and is not, in my opinion, a matter to be taken into consideration by the Board in its consideration of this appeal.

7.7. **Appropriate Assessment**

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

7.7.1. 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

7.7.2. 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

7.7.3. 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).

7.7.4. 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

7.7.5. The development is described at Section 2 of this Report. In summary, permission is sought for a house extension containing additional en-suite bedrooms and associated works, to facilitate student accommodation. The subject site is located at within the Ashlawn housing estate, within the urban footprint of Letterkenny.

Submissions and Observations

7.7.6. The submissions from the appellants and applicant are summarised as Section 6 of my Report.

European Sites

7.7.7. The subject site is not located within or adjacent to any designated European site, the closest such site being Lough Swilly SAC (Site Code 002287), which is c.1km east.

Evaluation of Effects

7.7.8. Having regard to the smallscale nature of the proposed development and the separation distance to the nearest European site, I am satisfied that no Appropriate Assessment issues arise, and I am satisfied that the development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Screening Determination

7.7.9. 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. 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 should be granted for the following reasons and considerations, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed extension and the character and pattern of development within the Ashlawn estate, it is considered that subject to compliance with conditions set out below, the proposed development would respect the scale and character of both the existing house on the site and other housing in the immediate area, would not seriously injure the residential amenities of the area or property in the vicinity and would not result in the creation of a traffic hazard. The proposed development would therefore be in accordance with the provisions of the Donegal County Development Plan 2018-2024 and would also accord with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The proposed development shall be carried out, in accordance with the plans and particulars lodged with the application, as amended by additional information submitted on 25th May 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>Reason: In the interest of clarity.</p>
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2.	<p>The development hereby approved shall be used as student accommodation only and shall not be used for any other purpose unless authorised by a prior grant of planning permission.</p> <p>Reason: To clarify the nature and extent of the permitted development to which this permission relates and to ensure that adequate car parking and services are provided to serve the development</p>
3.	<p>The development shall be amended as follows: -</p> <ul style="list-style-type: none"> • The rear-most ground floor bedroom within the existing house shall be omitted and the resultant space shall be provided as additional living accommodation for the use of residents. This additional living accommodation shall be made directly accessible from the kitchen/dining/living area. <p>Reason: In order to ensure a satisfactory level of accommodation is provided for residents.</p>
4.	<p>Prior to the commencement of development the applicant shall submit details of the external finishes proposed, for the written agreement of the Planning Authority.</p> <p>Reason: In the interest of the preservation of visual amenities.</p>
5.	<p>The development hereby approved shall incorporate a maximum of 3 No. off-road car parking spaces.</p> <p>Reason: To ensure that adequate parking facilities are available to serve the proposed student accommodation use.</p>
6.	<p>Prior to the commencement of development the applicant shall submit a parking and mobility management plan for the written agreement of the Planning Authority, which shall include which should include proposals for the provision of safe bicycle storage facilities for residents.</p> <p>Reason: To ensure there is adequate parking available to serve the development and in the interests of promoting the use of sustainable transport modes.</p>

7.	<p>Existing vegetation and mature trees on the north site boundary shall be retained as part of the development and the applicant shall incorporate all necessary measures to ensure their protection during the construction phase.</p> <p>Reason: In order to protect the residential amenity of neighbouring occupiers.</p>
8.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a satisfactory standard of development</p>
9.	<p>Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

	<p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Barry O'Donnell
Planning Inspector

1st March 2023.