



An  
Bord  
Pleanála

## Inspector's Report ABP314499-22

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<b>Development</b>	Retention of and repositioning of existing mobile home to the location of the long-established mobile home on the site and associated works.
<b>Location</b>	Rossnowlagh Lower, Rossnowlagh. Co. Donegal.
<b>Planning Authority</b>	Donegal Co. Council.
<b>Planning Authority Reg. Ref.</b>	22/51064.
<b>Applicant(s)</b>	Ronan Mc Anenny.
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Refuse permission.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Ronan Mc Anenny.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	July 8 <sup>th</sup> , 2023.
<b>Inspector</b>	Breda Gannon.

## **1.0 Site Location and Description**

- 1.1. The site is located to the north of the village of Rosstown, Co Donegal. It has a stated area of 0.11 hectares and accommodates a detached dormer style dwelling with 2 no. mobile homes to the rear. The area surrounding the house is paved and the rear of the house which accommodates the mobile homes has been surfaced with concrete. In addition to the roadside gates, separate access gates have been provided to the rear section of the site.
- 1.2. The site fronts onto the local road which provides access to the beach. It is adjoined to the north by a cluster of holiday homes (Beach Cottages) and by undeveloped ground to the east and south.
- 1.3. The area displays the characteristics of a typical seaside village with the pattern of development in the vicinity of the dominated by holiday accommodation in the form of caravan parks and holiday homes.

## **2.0 Proposed Development**

- 2.1. The development as described in the public notices submitted with the application proposes the following:
  - Retention of and repositioning of existing mobile home to the location of the long-established mobile home on the site.
  - Retention of additional security gates and concrete paving.
  - Permission for site development works including connection to existing services serving the long-established mobile home, decking around the new located mobile home and associated works, and
  - Permission for pedestrian gate adjacent to internal security gates.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse permission for the development on the grounds that it would be contrary to Policy UB-P-25 of the development plan, that it

would result in a substandard form of accommodation within the curtilage of the existing house and would create an undesirable precedent for similar development, which cumulatively would have the potential to be detrimental to the preservation of the residential amenities of the urban area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The **Planning Officer's** report of 2/8/22 concludes as follows:

- The development proposed to be retained is contrary to Policy UB-P-25 of the development plan regarding the subdivision of residential sites. It would constitute an unsustainable, haphazard and temporary form of development that is contrary to proper planning and creates a precedent for an undesirable form of development within the settlement.
- Due to the separation distances between the site and neighbouring property, issues arise in relation to loss of privacy, overlooking and residential amenity.
- Inadequate private amenity space for the existing dwelling.
- Traffic hazard arising from the creation of a separate entrance within the curtilage of the existing house.

### 3.2.2. Other Technical Reports

None

## 4.0 Planning History

**05/587** – Outline planning permission granted on the site for a one and a half storey dwelling with effluent treatment system on the site.

**08/20644** – Permission consequent on outline permission granted for a one and a half storey dwelling on the site, with connection to public sewer.

**13/51217** – Permission granted for extension of appropriate period of Ref No 08/20644 to November 9<sup>th</sup>, 2018.

## 5.0 Policy and Context

### 5.1. Development Plan

The operative development plan is the County Donegal Development Plan 2018-2024 (As Varied).

Chapter 6 of the plan is dedicated to Housing and Policy UB-P-25 relates to the subdivision of residential sites. It states:

*The Council will permit development that involves the subdivision of residential sites only where it can be demonstrated that:*

- a) The existing house is not part of an overall development and the proposal would compromise the original layout of which the existing house formed a part thereof, and*
- b) The curtilage of the existing dwelling is not subdivided by more than 50% by the proposal, and*
- c) The footprint of the proposed dwelling would not exceed one third of the new curtilage, and*
- d) The proposal would not appear incongruous with the density, massing, scale, proportions, materials and overall design and character of the existing property and the character of the streetscape and surrounding area, and*
- e) The proposal would not adversely affect the visual and residential amenity of adjoining properties and the surrounding area or give rise to adverse transport or road safety effects and will provide an acceptable level of parking for every separately occupied dwelling, and*
- f) The proposal would not reduce the provision of adequate private amenity space for the existing dwelling and will provide sufficient private amenity space for any separately occupied dwelling(s).*
- g) The proposal would not adversely affect the amenity of adjoining properties.*

## 5.2. Natural Heritage Designations

The site is located c 277, from Durnesh Lough SPA (Site code 004145) and c 350m from Donegal Bay SPA (Site code 004151)

## 5.3. EIA Screening

5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The application is to regularise existing developments on the site. The application provides for the removal of the old mobile home and the placement of a newer mobile home on the original footprint.
- The Planner's report on which the refusal decision is based, relies heavily on the premise that the site is subdivided which it is not. The site is retained as a single dwelling curtilage and the planning authority's insistence on the development's failure to comply with Policy UB-P-25 has no relevance in this case.
- The replacement of the long-established mobile home with a newer one of similar dimensions, is considered reasonable and will not adversely impact on the residential amenities of the adjoining dwelling to the north, which has its own mobile home placed adjacent to the appellant's boundary. A letter of support from applicant's neighbours supports the appeal.
- If planning permission is not granted for the replacement of the existing mobile home, the existing mobile home will remain on the site.
- The provision of an internal vehicular and pedestrian gate arrangement to safeguard children, whilst facilitating vehicular access is also considered

reasonable and the appellant does not accept that a traffic hazard will arise as a result of this arrangement.

- It is not accepted that the replacement of the mobile home constitutes a substandard form of accommodation within the curtilage of an existing house as contended by the planning authority. The use of the mobile home, specifically for a very short-term holiday season occupation by the appellant's extended family, represents a high-quality accommodation solution to overspill situations.
- Mobile homes are replaced throughout the entire country without any application for planning permission. The replacement of a mobile home does not constitute a material change to the development and is accepted as reasonable by planning authorities.
- The appellant is willing to receive a temporary permission for the replacement of the mobile home for a temporary period which will allow the case to be reviewed in the future. This will provide the planning authority with control over the development which it does not have at present, at is statute-barred due to the time it has been located on the site.

## 6.2. Planning Authority Response

The following summarises the planning authority's response:

- Despite frequent visits and letters from the Enforcement Officer, the appellant continued with unauthorised works to complete what is definitively sub-division of the site area.
- Residents confirmed during site visits that they were renting the accommodation separately. On one occasion, the dwelling house and both mobile homes were in use as accommodation and on one occasion there were 7 vehicles parked around the site area. Use of the dwelling house as a holiday rental property was recorded on social media during the summer months.
- The replacement of one mobile home with another is development, notwithstanding what may have happened on an unauthorised basis in the

locality. Rosstownlagh is characterised by mobile home parks which have been constructed for that purpose. To permit individual dwellings to have similar homes in their private amenity space would create haphazard and unregulated development which would be severely detrimental to existing residential amenities and create a highly undesirable precedent.

- The planning authority wishes to rely on the contents of the Planner's Report in response to this appeal.

## **7.0 Assessment**

### **7.1. Introduction**

Having examined all the application and appeal documentation, I consider that the main issues arising for determination by the Board in this appeal relate to the following;

- Principle of the development.
- Impacts on the character and amenities of the area.
- Appropriate Assessment.

### **7.2. Principle of the development**

- 7.2.1. I note from the documentation on the file that a mobile home was originally placed on the site in 1980 and subsequently replaced in 2007. A new mobile home was installed in position beside the older mobile home in 2019. There is no evidence that planning permission was obtained at any stage for any of the mobile homes placed on the site.
- 7.2.2. While the appellant argues that the original mobile home is immune from enforcement proceedings due to the seven-year rule, this does not regularise the development. Both mobile homes on the site remain unauthorised and replacing the old with the new mobile home does not alter this status.
- 7.2.3. The planning authority's reason for refusal cites non-compliance with Policy UB -P-25 relating to the subdivision of residential sites, which the appellant states has no relevance as the site has not been subdivided. While there is no physical boundary (with the exception of internal security gates) separating the front section of the site

occupied by the house from the rear section occupied by the mobile homes, the original curtilage of the house has been subdivided to accommodate the additional structures. The provisions of Policy UB-P-25 are therefore relevant.

- 7.2.4. Under the provisions of Policy UB-P-25, the subdivision of residential sites is only permitted under certain circumstances, which are designed to ensure that the amenity of the original house is not compromised and that there is adequate amenity afforded to residents of the new development. The proposal does not satisfy some of the criteria set out in Policy UB-P-25, particularly in relation to the subdivision of the original curtilage by more than 50% and the in terms of the reduction of private amenity space associated with the existing dwelling and the lack of sufficient private amenity space for the development to the rear. The site is clearly subdivided accommodating the house to the front and the mobile homes to the rear.
- 7.2.5. While the appellant states that the mobile home would be used to accommodate overspill from the existing house, the planning authority refer to evidence that the mobile homes have been rented separately. The subdivision of the site and separation by security gates and the duplication of children's play area at the rear of the house and between the two mobile home facilitates such an arrangement.
- 7.2.6. Rossnowlagh is a seaside village with a number of established caravan/mobile home parks and which support outdoor activities associated with the adjoining beach and local amenities. These parks are set out with appropriate infrastructure and facilities to meet the needs of occupants. Objective TOU-O-14 of the plan seeks to facilitate new tourism accommodation in a manner which sustainably protects and harnesses the tourism resource on which it depends. It contains specific policies aimed at the provision of new mobile home/static caravan parks (Policy TOU-P17) and the extension of existing parks (Policy TOU-P-18) subject to specified criteria and relevant Caravan and Camping Regulations (Policy TOU-P-20).
- 7.2.7. The current proposal involving the placement of a mobile home within the curtilage of an existing dwelling would create an undesirable precedent for similar type developments in the future, with the potential to make both the extension of existing and the provision of new purpose-built mobile home/caravan parks a less attractive option.



### **7.3. Impacts on the character and amenities of the area**

- 7.3.1. The development results in the erosion of private amenity space associated with the existing house and there is no private amenity space associated with the mobile home. The mobile home faces the back of the existing house resulting in overlooking and loss of privacy. The proposal therefore results in a haphazard form of development within the curtilage of the existing house which seriously detracts from its residential amenities and the overall character of the area.
- 7.3.2. The appeal is supported by a letter of support from the residents of the adjoining house to the north stating that the replacement of the mobile home will not impact on their residential amenity. I would note that the adjoining residents are likely to be more tolerant of potential impacts on residential amenity as they too have a mobile home located within the rear curtilage of their dwelling, which also overlooks the appeal site.
- 7.3.3. I would conclude that the unregulated placement of mobile homes within the curtilage of the existing house results in a substandard form of development which detracts from the overall amenities of the area.

### **7.4. Appropriate Assessment Screening**

- 7.4.1. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment as a built-up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

## **8.0 Conclusion**

- 8.1.1. I accept that it was entirely reasonable to assess the proposal under the provisions of Policy UB-P-25.
- 8.2. I accept the conclusion reached by the planning authority that the proposed development is contrary to Policy UB-P-25 of the Donegal Co. Development Plan 2018-2024 (As Varied) in respect of the subdivision of residential sites and results in

a discordant and haphazard form of development which significantly impacts on the residential amenities of the existing dwelling on the site.

## 9.0 Recommendation

- 9.1. On the basis of the above assessment, I recommend that permission for the development be refused for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

1. It is considered that the development proposed to be retained would be contrary to Policy UB-P-25 of the Donegal County Development Plan 2108-2024 (As Varied) as it would involve the subdivision of an existing residential site, which would result in a haphazard and substandard form of development within the curtilage of the existing house that would seriously impact on its residential amenities due to a lack of private amenity space and overlooking with impacts on privacy. The proposal would create an undesirable precedent for similar developments in the future which would impact on the overall character of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Breda Gannon  
Planning Inspector

31<sup>st</sup>, July 2023