



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315127-22

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<b>Development</b>	A Self Contained Annex extension to the side of house, detached domestic garage, and associated site development works
<b>Location</b>	Trentaboy, Drumkeen, Lifford PO, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2251262
<b>Applicant(s)</b>	Sharon McGee
<b>Type of Application</b>	Retention Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party vs. Grant
<b>Appellant(s)</b>	Noreen McGee
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> July 2023
<b>Inspector</b>	Stephen Ward

## 1.0 Site Location and Description

- 1.1. The site is located approximately 3km northeast of the rural settlement of Drumkeen, in the eastern part of Donegal. It is within an unserviced rural area and is accessed via a network of narrow rural roads approximately 650 metres east of the N13 National Primary Road. The site forms part of a cluster of six dwellings at this location.
- 1.2. The site contains a large dwelling house (stated floor area of 341m<sup>2</sup>), garage, septic tank, and percolation area. There is an existing site entrance and access road from the south and the site levels rise from south to north.

## 2.0 Proposed Development

- 2.1. Permission is sought to retain the existing annex extension, domestic garage, and associated siteworks. The annex extension is located to the eastern gable of the main dwelling and is linked via a shared entrance/corridor. It is a dormer style extension with a bedroom and kitchen/living space at ground floor level, as well as dormer level storage space (gross floor area c. 65m<sup>2</sup>). The application indicates that this is a self-contained annex extension which is occupied by the applicant's mother who is in need of care.
- 2.2. The garage is located to the northwest (rear) of the dwelling and has a gross floor area of 118m<sup>2</sup>. It is also a dormer style building which includes double garage doors at ground floor level, as well as storage space and a gym at dormer level.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 27<sup>th</sup> October 2022, Donegal County Council (DCC) issued notification of the decision to grant permission, subject to conditions. Conditions 1 and 2 specify that the self-contained annex shall be occupied by a dependant relative as an ancillary 'granny flat' in accordance with a section 47 agreement. Condition 3 states that the garage shall be used for domestic purposes only ancillary to the dwellinghouse.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The original DCC Planner's Report can be summarised as follows:
  - In response to third-party submissions, it is stated that:
    - The application address and site notice is valid in accordance with the Planning and Development Regulations 2001, as amended.
    - The potential for garage roof interference with broadband signal is not a material planning consideration.
    - The application is not being assessed as a separate apartment but as accommodation for a dependant relative. The use of same will be restricted in any permission through a section 47 agreement.
    - Concerns regarding unauthorised boundary walling will be forwarded to the DCC Enforcement Team.
  - The principle of the garage and annex extension is acceptable.
  - The proposal is assessed under Policy RH-P-8: Ancillary Accommodation for Dependants' Relatives' and the following is stated:
    - The scale of the extension is subservient to the main dwelling and the design is largely compliant with a previously permitted extension (planning ref. 06/60659).
    - The development will be served by a singular permitted entrance.
    - No concerns regarding domestic effluent or public health were raised in the previously approved extension.
    - The application outlines that it will be used to care for the applicant's elderly mother, which is supported by medical evidence. No evidence has been submitted regarding when the conversion took place and the longevity of the occupant's residence. Further supporting documentation will be required in this regard.
  - The scale and design of the garage is acceptable for ancillary use.
  - There will be no overlooking of surrounding dwellings.

- There will be no alterations to existing access arrangements.
- In relation to public health, no WC facilities are proposed.
- The report recommended a further information request in relation to the longevity of occupation and completion of a section 47 agreement regarding dependant relative occupancy.

The planning authority subsequently issued a further information request in accordance with the planner's report and recommendation. After the further information response, the final planner's report can be summarised as follows:

- Having regard to the information submitted, including supporting medical evidence of present residence of the applicant's mother at this address for medical reasons, it is considered that sufficient documentary evidence of a housing need for a dependant relative has been submitted to comply with Policy RH-P-8 of the Development Plan.
- It is recommended that the section 47 agreement regarding occupancy be submitted for sealing.
- The report recommends to grant permission and this forms the basis of the DCC decision

### 3.2.2. Other Technical Reports

The report from the Roads section outlines that there is no objection subject to standard conditions regarding vision lines and drainage.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

One third-party submission was received from the appellant. The issues raised can be summarised as follows:

- The application uses an incorrect address. It should be 'Trentaboy, Convoy'.

- While the site notice states that it was erected on the 12<sup>th</sup> of July 2022, it was not erected until the 25<sup>th</sup> of July 2022.
- The erection of the garage has blocked the internet signal to the appellant's property.
- Dwellings in the area have been restricted to family members and family homes, not for commercial or illegal purposes. The double garage and the apartment do not have permission and are not registered with the Residential Tenancies Board.
- The application has not addressed the huge ugly unfinished wall surrounding the property which does not come under the original planning permission.
- A DCC official inspected the property more than once and found no issues with this planning permission, which is now known to be false.

## 4.0 Planning History

**P.A. Ref. 04/9202:** Permission granted for erection of dwelling, garage, and septic tank.

**P.A. Ref. 05/9253:** Planning permission granted for the erection of conservatory to dwelling granted under Planning Ref. 04/9202.

**P.A. Ref. 06/60659:** Planning permission granted for construction of an extension to dwelling not yet constructed (Planning Refs. 04/9202 and 05/9253).

## 5.0 Policy Context

### 5.1. County Donegal Development Plan 2018-2024

- 5.1.1. In relation to rural area types, the site is located within a 'Stronger Rural Area', which are defined as areas where population levels are generally stable within a well-developed town and village structure and in the wider rural area around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas.

5.1.2. Policy RH-P-8 deals specifically with the issue of 'Ancillary Accommodation for Dependant Relatives' in all rural area types. It states as follows:

*It is a policy of the Council to consider proposals for the provision of ancillary accommodation for dependant relatives within the curtilage of an existing rural dwelling, subject to compliance with the following criteria:*

*(a) Ancillary accommodation for dependant relatives shall be clearly subservient to the main dwelling house in terms of scale and mass, shall be consistent with the form and appearance of the main dwelling house and shall be designed to integrate effectively within the host rural environment,*

*(b) Ancillary accommodation shall be served by the existing vehicular entrance to the site and the onus shall be placed on prospective applicants to demonstrate that existing entrance arrangements are safe and fit for purpose,*

*(c) Adequate provision shall be made for the treatment and dispersal of domestic effluent. 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 Section 47 of the Planning and Development Act 2000 (as amended).*

5.1.3. In terms of landscape character, the county has been categorised into three layers of landscape value ('Especially High Scenic Amenity', 'High Scenic Amenity' and 'Moderate Scenic Amenity'), which are illustrated on Map 7.1.1 of the Plan. The subject site is within an area classified as 'Moderate Scenic Amenity', which are described as areas with a unique, rural and generally agricultural quality, with the capacity to absorb additional development that is suitably located, sited and designed subject to compliance with all other objectives and policies of the Plan.

5.1.4. Policy NH-P-7 seeks to facilitate development in areas of 'Moderate Scenic Amenity' of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.

## 5.2. **Natural Heritage Designations**

There are no designated Natura 2000 sites or any other designated nature conservation sites within a 5km radius of the site.

### 5.3. EIA Screening - Preliminary Examination

The development to be retained is not of a class that could require EIA in accordance with Schedule 5 of the Planning and Development Regulations 2001, as amended. Furthermore, having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the development. 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

The decision of DCC to grant permission has been appealed by Noreen McGee of Trentaboy, Convoy. It included a request for an oral hearing which was subsequently refused by the Board. The grounds of appeal outline a range of concerns mainly relating to unauthorised development; the accuracy of information submitted with the application; and the handling of the enforcement case and the planning application by DCC. The relevant concerns can be summarised as follows:

- There has been an ongoing enforcement case and the appellant has provided evidence to DCC that the property is commercially rented as an apartment.
- There is no garage door to the so-called garage and it is clear that it is a 'living building'.
- Safety concerns are raised regarding the absence of railings to the balcony and upstairs patio doors.
- The information submitted regarding the occupation of the property by a dependant relative is misleading.
- The address used in the application and the stated date of erection of the site notice are incorrect.
- The garage roof has resulted in the loss of her internet connection.

- The appeal is accompanied by copies of advertisements and other correspondence which purportedly demonstrates the inaccuracies contained within the application.

## 6.2. Applicant Response

None.

## 6.3. Planning Authority Response

The response of the planning authority states that all issues raised in the appeal have been covered in the planner's report. In addition, points made by the planning authority can be summarised as follows:

- Information included as part of the Enforcement process is separate to the planning application process and is not within the remit of this application.
- The planning notices refer to the correct townland of 'Trentaboy' and the reference to Drumkeen (as opposed to Convoy) is not invalid. The site notice details were verified on inspection of the site.
- The planning authority is not in a position to challenge the accuracy of what was submitted with the application and the Development Plan policy (RH-P-8) allows for accommodation for dependant relatives. The applicant provided details which appeared to satisfy this policy, including a willingness to sign a section 47 agreement.
- The planning authority respectfully requests that the Board upholds the decision in this case.

## 6.4. Observations

None.



## 7.0 Assessment

7.1. Having regard to the documentation submitted in connection with the application and the appeal, and having inspected the site, I consider that the main issues for assessment are as follows:

- The principle of the development
- Visual Amenity
- Residential Amenity
- Access
- Domestic Effluent
- Unauthorised Development
- Validity.

### 7.2. The principle of the development

7.2.1. I note the appellant's contentions that the property is being used separate to the main dwelling for commercial rent purposes and the alleged supporting information submitted with the appeal. However, I would highlight that the application has not been described as a separate commercial rental and the drawings and details submitted with the application are consistent with uses which are ancillary to the host dwelling. Furthermore, having inspected the property internally, I can confirm that there is a functioning internal link between the main dwelling and the annex extension and there was no evidence of separate rental use. Therefore, the use of the extension appears to be as self-contained accommodation which is ancillary to the host dwelling. I also inspected the garage internally and confirm that its use is consistent with domestic storage/ancillary use. There was no evidence of residential or commercial use within the garage. Accordingly, I consider that the appeal should be assessed as described in the application and that appropriate conditions should regulate usage in the event of a grant of permission.

7.2.2. Development Plan policy RH-P-8 clearly establishes that ancillary accommodation for dependant relatives can be permitted in all rural areas subject to compliance with relevant criteria. The application has outlined that the self-contained annex extension is required to accommodate the applicant's mother. It is stated that the applicant

provides care for her mother, and this has apparently been supported by a letter from her mother's GP (redacted for privacy reasons). It is stated that her mother has occupied that space since March 2022, and it is envisioned that her residence will be long term/permanent. The applicant has confirmed willingness to enter into a section 47 agreement restricting the occupancy of the extension in this manner.

7.2.3. Having regard to the foregoing, I would concur with the planning authority's view that the application has established the need for ancillary accommodation for a dependant relative in accordance with Development Plan policy RH-P-8. Therefore, I consider the proposal to be acceptable in principle. This policy also requires compliance with criteria relating to scale and design, access, and domestic effluent disposal. These matters will be assessed in the following sections of this report. The issues raised in relation to the health and safety of the property would be covered under a separate legal code and will not be addressed in this assessment.

7.2.4. As previously outlined, I consider that the garage is consistent with ancillary domestic use and would, therefore, be acceptable in principle. Impacts in relation to visual amenity and residential amenity will be assessed in the following sections of this report.

### 7.3. **Visual Amenity**

7.3.1. The site is located within an area of 'Moderate Scenic Amenity', which is the lowest category of sensitivity in the Development Plan. The Development Plan states that development will be facilitated in such areas subject to an appropriate nature and scale which integrates and reflects the character and amenity designation of the landscape.

7.3.2. The application site is large and contains a host dwelling of significant scale which is located within a significant cluster of six dwellings. I note that the height and scale of the annex extension is consistent with that previously permitted under P.A. Ref. 06/60659. It is of a minor scale compared to the host dwelling and has been designed to integrate with the host dwelling in terms of form, appearance and finishes etc. Accordingly, consistent with criterion (a) of Policy RH-P-8, I am satisfied that the annex extension appears clearly subservient to the main dwelling house in terms of scale and mass, that it is consistent with the form and appearance of the

main dwelling house, and that it has been designed to integrate effectively within the host rural environment and the surrounding cluster of houses.

- 7.3.3. Similarly, I do not consider that the height and scale of the garage is excessive in comparison to the host dwelling. It is setback to the rear of the host dwelling, and I consider that the significant size of this site can accommodate the scale of the garage and other development. The design and finishes of the garage integrate with the host dwelling and surrounding development in an acceptable way.

#### **7.4. Residential Amenity**

- 7.4.1. Both the annex extension and the garage are setback a significant distance (at least 30 metres) from any of the surrounding dwellings. Having regard to this significant separation distance, together with the limited scale of the subject structures, I do not consider that there would be any significant impacts on the amenities of surrounding dwellings by reason of overlooking, overshadowing, or overbearing impacts.
- 7.4.2. I note that the appeal raises concern that the garage structure has interfered with the internet signal to the appellant's house. However, given the significant separation distances that exist, I do not consider that the height or scale of the structure is excessive or unreasonable in this rural environment, or that it would be likely to cause significant interference with internet coverage. Accordingly, I would have no objections in this regard.

#### **7.5. Access**

- 7.5.1. It is proposed to use the existing single access vehicular entrance to the site and no alterations are proposed in this regard. I do not consider that the scale of the development would significantly intensify or alter traffic movements associated with the site. The adjoining road network would have limited traffic and travelling speeds would be low due to the width and alignment of the adjoining road. On inspection of site, I consider that access and sightline availability is acceptable, and I note that the planning authority has not raised any objections in this regard. Accordingly, I am satisfied that the proposal would satisfactorily comply with criterion (b) of Policy RH-P-8.

## **7.6. Domestic Effluent**

- 7.6.1. The EPA Code of Practice for Domestic Waste Water Treatment Systems (2021) calculates waste water flow and loading based on the number of bedrooms proposed. In this regard, I note that the extension permitted under P.A. Ref. 06/60659 already included an ensuite bedroom and that grant of permission did not require any upgrade to the existing septic tank and percolation area. The self-contained accommodation to be retained also accommodates one bedroom which effectively replaces that which was already permitted. Therefore, there is no net increase in wastewater loading and I do not consider that any further assessment is required in this regard. This would be consistent with the planning authority's approach, and I am satisfied that there should be no objection in relation to criterion (c) of Policy RH-P-8.

## **7.7. Unauthorised Development**

- 7.7.1. The appellant has raised issues of unauthorised development relating to the development in question as well as the site boundary wall. This is an application for retention permission which aims to regularise acknowledged unauthorised development consisting of the annex extension and the garage. The application does not relate to the boundary wall and this is a separate matter which should be the responsibility of the planning authority for enforcement investigation if necessary. Accordingly, I am satisfied that the relevant issues of unauthorised development will be addressed in this case.

## **7.8. Validity**

- 7.8.1. The appellant has alleged that the application should be deemed in valid on the basis of the address used and late erection of the site notice. Consistent with the planning authority view, I acknowledge that the correct townland (Trentaboy) has been used and that the site is closer to the settlement of Drumkeen (c. 3km) than it is to Convoy (c. 4.5km). Accordingly, I do not consider that the address used is misleading to the public.
- 7.8.2. Although the appellant contends that the site notice was not erected until 25<sup>th</sup> of July rather than the stated date of the 12<sup>th</sup> of July, I would highlight that there is no evidence to support this assertion. I note that the DCC Area Roads Engineer report confirms that the site notice was inspected on the 25<sup>th</sup> of August 2022 and was found

to be suitably erected. Accordingly, it has been examined within the statutory 5-week period and I consider this to be sufficient evidence of compliance with the requirements of the Planning and Development Regulations 2001, as amended.

- 7.8.3. In conclusion, I note that the matters regarding the application address and the site notice were considered acceptable by the planning authority. I am satisfied that these matters did not prevent the appellant from making representations and/or an appeal. The above assessment represents my *de novo* consideration of all planning issues material to the proposed development.

## 8.0 **Appropriate Assessment**

Having regard to the nature and limited scale of the works, and the separation distance between the appeal site and the nearest European Site, it is considered that the proposed development, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

## 9.0 **Recommendation**

I recommend that retention planning permission should be granted, subject to conditions, for the reasons and considerations outlined below.

## 10.0 **Reasons and Considerations**

Having regard to the pattern and character of development in the area, the design and scale of the development to be retained, and the provisions of the County Donegal Development Plan 2018-2024 including Policy RH-P-8 which allows appropriate ancillary accommodation for dependant relatives in rural areas, it is considered that, subject to compliance with the conditions set out below, the development to be retained would not seriously injure the visual amenities of the area or the residential amenity of surrounding properties, would not endanger public safety or convenience by reason of traffic generation, and would not be prejudicial to public health or the environment by reason of domestic effluent disposal. The

development to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 5th day of October 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 and the development shall be retained in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The self-contained annex extension shall be used as ancillary accommodation for a dependant relative and shall revert to use as part of the main dwelling on the cessation of such use. It shall not be sold, let, or otherwise transferred or conveyed, save as part of the dwelling.  
  
(b) Within two months of the date of this order, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to restrict the occupancy of the annex extension in accordance with (a) above.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To protect the amenities of property in the vicinity and to ensure that the development is used to meet the stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area to comply with the objectives of the current development plan for the area.

3. The garage to be retained shall be used solely for domestic purposes only ancillary to the enjoyment of the existing dwelling house as such and shall not be used for any other purpose including commercial use or human habitation.

**Reason:** In the interests of orderly development.

4. Water supply and drainage requirements, including surface water collection and disposal, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

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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Stephen Ward  
Senior Planning Inspector

23<sup>rd</sup> July 2023