



An
Bord
Pleanála

Inspector's Report

ABP-315518-23

Development	Retention of site works including land filling and permission for (1) construction of extensions (2) amendments to existing dwelling (3) demolition of existing derelict building (4) new wastewater treatment system and associated works.
Location	Carrowhugh, Greencastle, Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2251735
Applicant(s)	Kieran & Eilis Cavanagh.
Type of Application	Retention permission and permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party vs. Grant
Appellant(s)	John Gore
Observer(s)	None
Date of Site Inspection	22 nd July 2023
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located approximately 2km northeast of the rural village of Greencastle, in the eastern part of the Inishowen Peninsula. It is within an unserviced rural area and is accessed via a local road (Moville to Stroove) which runs parallel to the coastline (approximately 650 metres to the south). The site is elevated in relation to the surrounding coastline and levels in the area generally rise from south to north.
- 1.2. The site is significantly lower than the adjoining road and slopes downward from north to south. It contains three buildings in close proximity to the road. On the western side there is an existing bungalow, while on the eastern side there is what is described as a derelict building and an existing garage. There is an existing vehicular entrance between the bungalow and the two other outbuildings. The existing septic tank serving the bungalow is located to the rear (southeast) of the site.
- 1.3. The site is bounded by existing dwellings to the west and south, while the immediately adjoining fields to the east and north are undeveloped. There is a high concentration of one-off dwellings in the surrounding area.

2.0 Proposed Development

- 2.1. Permission is sought to retain the existing landfill on the site. This involves an area of c. 583m² to the lower and steeper rear (south) portion of the site. The levels of fill increase from <1m at the northern end to c. 2m at the lower southern end.
- 2.2. In addition to this, permission is sought for the following works:
 - Construction of extensions (76m²) to the rear and side of the existing dwelling (100m²).
 - Carry out alterations to existing dwelling including refurbishment of roof and new wall finishes.
 - Demolition of existing derelict building (55m²).
 - Installation of a secondary wastewater treatment system and tertiary infiltration area to replace existing septic tank.

3.0 Planning Authority Decision

3.1. Decision

By order dated 8th December 2022, Donegal County Council (DCC) issued notification of the decision to grant permission, subject to conditions. The decision to grant permission (Schedule B) contains the following notable conditions (in summary):

Condition 2 – Permanent visibility splays of 160 metres shall be provided in each direction.

Conditions 6 - Outlines conditions relating to the installation of the wastewater treatment system.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The DCC Planner's Report can be summarised as follows:

- In response to third-party submissions, it is stated that:
 - The building to be demolished is not on the NIAH or RPS and is in poor condition. The proposed demolition is considered acceptable.
 - The proposal involves only a minor relocation of the existing entrance. Notwithstanding the road/traffic conditions at this location and the access gradient to the site, satisfactory vision lines as detailed can be achieved having regard to the brownfield nature of the site.
- The principle of the proposed development is acceptable.
- The retention of the derelict cottage would constitute overdevelopment of the site and there is no objection to its demolition.
- The design of the extension is appropriate having regard to the design and character of the existing dwelling on site.

- The proposal would not impact on the residential amenity of neighbouring properties and sufficient private amenity space will be retained for the proposed development.
- The 'Site Suitability Assessment' confirms a T-Test result of 47.33 which satisfactorily indicates that subsoil is suitable to treat and dispose wastewater subject to conditions.
- It is not considered that the proposed development would be likely to have any significant effect on Natura 2000 sites, individually or in combination with any other plan or project, and it is not considered that Screening for Appropriate Assessment is required.
- No development charges are applicable in this instance.
- The report recommends to grant permission and this forms the basis of the DCC decision.

3.2.2. Other Technical Reports

None.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

One third-party submission was received from the appellant. The issues raised generally relate to traffic/access and are covered in the grounds of appeal. The submission also contends that the proposal is for the demolition of a historically relevant traditional Irish cottage that exists on the 1897 Ordnance Survey Map. It states that the application should have showed more respect to this structure rather than retaining the more recent and less attractive bungalow.

4.0 **Planning History**

There would not appear to be any recent valid applications on the site.

5.0 Policy Context

5.1. County Donegal Development Plan 2018-2024

- 5.1.1. 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 'High Scenic Amenity', which 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. Within areas of 'High Scenic Amenity', Policy NH-P-7 seeks 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 Scenic Amenity Designations include several views to be preserved over the adjoining coastline etc. However, none of the identified view directions pass directly through/over the application site.
- 5.1.4. In relation to wastewater disposal, Policy WES-P-11 outlines that single dwellings in un-sewered areas shall comply with the Code of Practice for Waste Water Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) published by the Environmental Protection Agency.
- 5.1.5. Part B: Appendix 3 of the CDP outlines Development Guidelines and Technical Standards. Relevant provisions can be summarised as follows:
- Table 2 outlines maximum acceptable gradients on approach to roads.
 - Table 3 and Figure 2 outline requirements for vision lines at junctions with roads in rural areas outside the 60km speed limit zone. Table 5 also outlines minimum stopping sight distances for Non-National Roads in rural areas outside a 60 kph speed limit zone. Deviations from the requirements may be

considered upon certification by the Applicant's Designer to be designed and constructed in accordance with the NRA DMRB/DMURS as appropriate.

5.2. Natural Heritage Designations

The nearest Natura 2000 site is the North Inishowen Coast SAC, which is located c. 2.3km northeast of the application site.

5.3. EIA Screening – Preliminary Examination

The proposed development 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 John Gore of Haylon Village, Carrowhugh, Greencastle. The grounds of appeal can be summarised as follows:

- Condition no. 2 (Schedule B) of the DCC decision requires visibility splays of 160m in each direction. During the application, the appellant's submission outlined that sightlines have not been indicated correctly. The sightlines clearly cross third-party lands (directly to the east) and the appellant's land further east where sightlines are obstructed by his dwelling. The appellant is not prepared to demolish the dwelling or consent to the sightlines crossing his land, and therefore sightlines cannot be achieved.

- A digital survey is attached showing the sightlines overlaid on the appellant's property. Notwithstanding any relaxation for the measurement of sightlines as per clause 2.10 and figure 3 Appendix 3 of the CDP, the sightlines clearly pass through third-party lands in both directions.
- Accurate information on the entrance arrangements and written consent from adjacent landowners should have been requested/submitted. In the absence of same the application should have been refused.
- A minimum 160m stopping sight distance is required as per Table 05 of Appendix 3 of the CDP and no submissions have been made to warrant deviation from that standard.
- There is a severe drop in levels from the public road to the site. Table 2 Appendix 3 of the CDP deals with single access onto non-national roads and recommends a 5 metre 'dwell' area for exiting vehicles such that the gradient does not exceed 4% for a distance of 5 metres back from the edge of the road in 'difficult circumstances'. The full requirement is for a 15-metre dwell area with a gradient of 2.5%. Neither of these options are achievable on the site.
- It would be impossible to access the retained garage with an acceptable access road gradient.
- The DCC planner's report accepts the proposed gradient based on the brownfield nature of the site, but this was an opportunity to appropriately address this issue.
- Traffic on this road travels at speed and the undulating road compromises visibility. The site access would be extremely dangerous and would increase the risk of potential fatalities dramatically.

6.2. Applicant Response

None.

6.3. **Planning Authority Response**

The response of the planning authority states that it relies on the consideration and recommendations contained in the planner's report. It is considered that safe access can be achieved via the slightly relocated entrance. Having regard to the brownfield nature of the site and the existing and proposed vision lines, the proposed relocation of the entrance is considered acceptable. 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 and traffic
- Domestic Effluent.

7.2. **The principle of the development**

7.2.1. In the first instance it is proposed to retain the existing landfill on site. I note that the fill consists of inert material (stone and soil) and is located on the lower area to the rear of the site. I do not consider that the fill has any negative impacts on the site or surrounding area, and I have no objection to the principle of its retention.

7.2.2. Regarding the demolition of the existing building, I note that it would appear to be a former dwelling. However, consistent with the planning authority's view, I consider that it is in poor condition, and I note that it is not included on the Record of Protected Structures or the National Inventory of Architectural Heritage. Whatever

about its previous value, I do not consider that there is surviving architectural heritage value that would justify insistence on its retention. Accordingly, I have no objection to the proposed demolition.

- 7.2.3. Otherwise, the proposed development effectively involves extensions and alterations to the existing dwelling as well as alterations and improvements to access and servicing arrangements on site. I consider that this is acceptable in principle subject to further assessment as outlined in the following sections of this report. I note that CDP policy RH-P-6 deals with proposals for the refurbishment of derelict buildings. However, I do not consider the existing dwelling to be derelict and therefore this policy does not apply.

7.3. Visual Amenity

- 7.3.1. I acknowledge that the site is located within an area of 'High Scenic Amenity'. The Development Plan indicates that such areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape.
- 7.3.2. The main significant visual impacts in this case relate to the proposed alterations and extensions to the existing dwelling. I acknowledge that the existing bungalow is not of a distinct or valuable architectural character. Therefore, it is robust in terms of its capacity to accommodate alterations in design and character. The arrangement of the house would be effectively flipped with the 'rear' elevation facing the road. This would enable the 'front' elevation to capitalise on the coastal views and solar gain to the south. I consider this to be a reasonable approach. The scale and massing of the proposed extensions are primarily broken down through the creation of two separate extensions, one to the 'front' and one to the side. The front extension is relatively small and concealed and will generally be consistent with the scale of the existing dwelling.
- 7.3.3. The extension to the side is larger and adopts a different character with stone cladding and a flat roof. I consider that the side extension itself is not excessive in height or scale when compared to the host dwelling and I have no objection to its contrasting character. However, the elevation drawings show a 4m-high wall linking the side extension to the entrance wing walls. I consider this wall to be of excessive

height and scale which unacceptably detracts from the design quality of the scheme. This could be addressed through a condition of any permission.

- 7.3.4. I note that the proposed extensions and alterations would be at a significantly lower level compared to the adjoining road. The works would not be of excessive scale or inappropriate character when considered in conjunction with the host dwelling and other development in the surrounding area. Accordingly, subject to alteration of the wall as previously discussed, I would have no objections to the visual impact of the alterations and extensions or any other aspect of the development in question.

7.4. Residential Amenity

- 7.4.1. The proposed extensions are setback significant distances from any of the surrounding dwellings. The 'front' extension is closest to the western site boundary at a distance of c. 8 metres. However, the proposed development is only single storey and does not incorporate significant glazing in close proximity to site boundaries. Having regard to the significant separation distances from surrounding properties, together with the limited scale of the proposed extensions, 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. Accordingly, I have no objections in this regard.

7.5. Access and traffic

- 7.5.1. The question of access and traffic hazard is the main issue raised in the appeal and I have acknowledged the serious concerns raised by the appellant. At the outset, I would highlight that this case involves alterations to the existing access arrangements to an existing dwelling. The existing entrance is haphazard in terms of its definition and condition. There are no defined wing walls, and the roadside boundary consists of a limited setback of overgrown banking and hedging. The surfacing at the entrance and access road is also haphazard and overgrown.

- 7.5.2. It is proposed to amend the existing entrance through a slight relocation to the east within the site. A new retaining wall roadside boundary setback would be constructed, fronted with hedgerow planting. The amended entrance would be properly defined through the construction of wing walls and any obstructing utility poles would be relocated. Accordingly, I consider that the proposals would provide

traffic-related benefits through the improvement and formalisation of the existing haphazard access arrangements.

7.5.3 Regarding the appellant's concerns about the access gradient, I note that the 'Retention of Filling Site Plan' (Map Ref DL0054) includes a section drawing through the proposed access road, including its interface with the adjoining public road. Having reviewed this drawing, I am satisfied that the gradient at the junction with the public road would not be excessive and would provide an acceptably graded 'dwell' area for vehicles exiting the site.

7.5.4. In relation to vision lines and stopping distances, I note that a requirement for 160 metres visibility may impact on third party lands and the appellant's concerns regarding third-party consent for clearance and maintenance purposes. However, I consider that significant regard must be had to the fact that this is an existing substandard entrance arrangement. I note the proposals to formalise/define the access point and create a definitive roadside boundary setback for the entire length of the site (c. 40 metres). I consider that this would significantly improve visibility at this location, even without the need for 160m sightlines or any incursion on third party lands. I would accept that condition no. 2 of the planning authority decision may require incursion on third-party lands. However, I consider it to be unnecessary and any grant of permission should include revised conditions to address and agree this matter.

7.5.5. Having inspected the site, I did not witness excessive traffic volumes or speeds at this location. I have also examined the vertical and horizontal alignment of the adjoining road and existing road conditions. Ultimately, I am satisfied that the proposals will improve access and traffic conditions at the site, and I do not consider that a refusal of permission would be warranted on grounds of traffic hazard. The specific details of the entrance arrangements and sightlines should be agreed with the planning authority by condition.

7.6. Domestic Effluent

7.6.1. It is proposed to replace the septic tank currently serving the dwelling with a secondary wastewater treatment system and tertiary infiltration area. The application

is accompanied by a Site Suitability Assessment Report in accordance with the EPA Code of Practice for Domestic Wastewater Treatment Systems (2021).

- 7.6.2. The Site Assessment identifies that the Aquifer Category is 'Poor' (PI) and the groundwater vulnerability is 'Extreme'. The trial hole depth of 2.2 metres did not encounter any bedrock or the water table. The soil conditions include some stone fill within the upper portion and 'gravelly sandy silt/clay' at the lower end of the trial hole. The subsoils are generally of a compact nature. As per Table E1 of the Code of Practice (CoP), the Groundwater Protection Response Matrix (R2¹) indicates that wastewater treatment is acceptable subject to normal good practice.
- 7.6.3. The application has carried out a subsurface percolation T-TEST in accordance with the CoP. I am satisfied that test conditions and results are consistent with the site conditions observed on my site inspection. The results indicate a 'T' value of 47.33 and the Site Assessment concludes that this is suitable for a secondary wastewater treatment system and polishing filter. I note that this is consistent with the interpretation of the percolation values as outlined in Table 6.4 of the CoP.
- 7.6.4. The Site Assessment recommends the installation of a packaged secondary treatment system (PE of 5) and a tertiary treatment system consisting of a reed bed filtration system. I am satisfied that the proposed wastewater treatment system would comply with the minimum separation distances as outlined in Table 6.2 of the CoP. Furthermore, I am satisfied that the proposal complies with the recommendations for secondary packaged wastewater treatment systems and tertiary treatment systems as outlined in sections 9 and 10 of the CoP.
- 7.6.5. I note that the planning authority has not raised any objection to the wastewater proposals subject to conditions. Ultimately, I consider that the proposed development would significantly improve the existing on-site treatment conditions, and this would provide a public health and environmental benefit. Accordingly, I have no objections in this regard.

8.0 **Appropriate Assessment**

Having regard to the nature and limited scale of the works, the separation distance between the appeal site and the nearest European Site, the lack of significant hydrological connectivity and the assimilative capacity of intervening waterbodies, 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 permission and 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 carried out, and the provisions of the County Donegal Development Plan 2018-2024, it is considered that, subject to compliance with the conditions set out below, the development to be retained and carried out 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 or hazard, and would not be prejudicial to public health or the environment by reason of domestic effluent disposal. The development to be retained and carried out would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be retained and carried out in accordance with the plans and particulars lodged with the application, 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 retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows. The 'rear yard' wall connecting the proposed side extension and the entrance wing wall shall be reduced to a maximum height of 2 metres. Proposals in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Prior to commencement of development, proposals for the provision of maximum achievable sightlines from the site entrance shall be submitted to and agreed in writing with the planning authority. The proposals shall:

- (a) not infringe on third party lands unless written consent from the relevant landowner is included for the creation and maintenance of the proposed sightlines,

- (b) clarify the gradient of the access road at the junction with the public road, and

- (c) clarify proposals for the treatment of the area between the new roadside boundary and the edge of the public road.

Reason: In the interest of traffic safety.

4. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) Within three months of the first occupation of the dwelling, 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 in accordance with the standards set out in the EPA document.

Reason: In the interest of public health

5. The existing garage 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.

6. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. 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.

Stephen Ward
Senior Planning Inspector

23rd July 2023