



An
Bord
Pleanála

Inspector's Report ABP317169-23

Development	Construction of a residential unit for staff accommodation
Location	Alcorns Flower & Garden Centre , Loughnagin, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	23/50292
Applicant	Clive Alcorn
Type of Application	Planning permission
Planning Authority Decision	Conditional grant
Type of Appeal	Third Party
Appellant	Dr Ann McDaid, 147 Meadow Hill, Kiltoy, Letterkenny
Observers	None
Date of Site Inspection	5 th December 2023
Inspector	Trevor Rue

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1.0 Site Location and Description

- 1.1. The appeal site lies in a suburban area about 3.5 kilometres to the north east of Letterkenny Town Centre and has a stated area of 0.91 hectares. It comprises part of a larger complex which has been developed as a flower and garden centre with a mini-zoo known as Tropical World and a café. The site is occupied by polytunnels and a netted structure, a work shed, a storage shed and a garage. The place where it is proposed to build consists of rough open ground with a hardstanding running through the middle of it.
- 1.2. Access to the site is via a laneway which adjoins Kilty Road about 300 metres to the south and runs through the agglomeration of buildings and structures that comprise the existing commercial development. The final, winding part of the laneway which rises up to the site past rows of polytunnels is closed off by a barrier.
- 1.3. The site is adjoined to the west by the Meadow Hill housing estate. There are trees and bushes on the common boundary.

2.0 Proposed Development

- 2.1. Permission is sought for an accommodation building 18.3 metres in length, 8.6 metres in width and with a ridge height of 5.017 metres. The finished floor level would be 0.15 metres above that of the adjacent polytunnels. It would be over 26 metres from the rear, western boundary of the site. A patio would be provided to the front of the building and two car parking spaces to the rear.
- 2.2. The internal floor area of the building would be 146.7 metres. There would be four double bedrooms (two of which would have *en suite* facilities), a bathroom, a utility room, a workshop and a combined kitchen/dining area and living room.
- 2.3. The long elevations would have olive green corrugated metal cladding, while the short elevations would have grey horizontal weatherboard cladding. The door and window openings on the main elevations would have a vertical emphasis but large triangular windows would be inserted at upper level in the south-eastern gable facing the site entrance. Solar panels would be installed at roof level on the north-eastern elevation.
- 2.4. The proposed building would be used by students from within Ireland and abroad on work placements of 6 to 12 weeks on average in the mini-zoo and the nursery.

3.0 Planning Authority Decision

3.1. Decision

On 27th April 2023, Donegal County Council decided to grant permission subject to seven conditions. These included conditions restricting the use of the building and the workshop room and requiring changes to external elevations.

3.2. Planning Authority Reports

Planning Report

3.2.1. The **planner's report** of 25th April 2023 provided the reasoning for the authority's decision. She described the site and the proposed development, summarised the response of the internal Roads Service and the key points raised in a third party submission, set out the planning history and relevant provisions of the development plan. Among the main issues she identified were the principle of development, siting and design, residential amenity, access and public health.

3.2.2. The planning officer reached the following conclusions relevant to these matters:

- The principle of housing within the urban settlement framework of Letterkenny is wholly acceptable. The proposed development is entirely compatible with the existing mixed residential use of the site.
- The location, scale, height and overall design are acceptable, given that the site is not overly visible from the public realm. However, the materials lack consistency and fluidity as the gables are to be clad in timber and the main elevations in corrugated metal. One consistent material is required to help blend the block into the environment; this can be secured by condition.
- The proposed internal floor area of the unit, aggregate living room areas and bedroom areas all exceed minimum standards. The workshop should be confined to light non-audible uses associated with the garden centre and animal petting zoo only.
- Given the separation distances between the subject site and the neighbouring dwellings to the north, which are located on more elevated lands, together with the existing boundary treatment, no significant concerns arise in relation to

privacy, overlooking, noise or nuisance or loss of residential amenity. The garden centre and its associated activities are long established and have not given rise to complaints from anyone other than the objector.

- The current access arrangements would remain. The provision of parking spaces on a bend of an internal access lane is not ideal but the site is not intensely used and very little conflict would arise.
- It is intended that the building would be connected to the public mains for water and waste. No concerns arise given the site's urban location. Surface/storm water would be directed to a previously approved rainwater harvesting tank.

Other Technical Reports

3.3.1 The Council's **Roads Service** had no objections to the proposed development and recommended conditions.

4.0 Planning History

4.1. **13/50103:** In 2013, planning permission was granted to the present applicant for polytunnels, a storage shed and all associated site works used in connection with the garden centre.

4.2. **20/51422:** On 6th January 2021, permission was granted to the present applicant for a plant production unit to consist of a work shed, two polytunnels and a netted structure and all associated site works including a rainwater harvesting tank.

4.3. **22/51260:** On 15th September 2022, the Council decided to grant permission to the present applicant to retain an existing domestic garage and all associated site works. Following a third party appeal (**314831-22**), the Board granted permission subject to conditions on 25th April 2023.

4.4. **22/51655:** On 24th November 2022, the Council decided to grant permission for (1) erection of a shed for storage of equipment associated with the existing business, including erection of solar panels to roof; and (2) erection of an additional polytunnel attached to existing polytunnels and netted structure approved under reference number 20/51422, and all associated site works. Following a third party appeal (**315395-23**), the Board granted permission subject to conditions on 25th April 2023.

- 4.5. **UD21/325:** The planner's report refers to an enforcement case related to non-compliance with planning permission 20/51422 and unauthorised work shed, steel-clad domestic shed/garage and two bay netted structures.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. Map 12.1B of the Donegal County Development Plan 2018-2024 shows the appeal site included within the Letterkenny and environs plan boundary. It is zoned as an area of established development. Table 12.2 of the plan sets the following objective for such areas in Letterkenny:

“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.”

- 5.1.2. Policy LK-H-P-1 of the plan states that new housing development shall be guided to lands identified on the accompanying Map 12.1B and that in addition, consideration will be given to appropriate proposals at other locations, including within zoned areas of established development.
- 5.1.3. Policy ED-P-7 indicates that proposals for the extension of an existing business use within a defined settlement will be considered, provided the resultant scale and form of the enterprise is compatible with the character and scale of the settlement and locality and the proposal meets the criteria set out in Policy ED-P-14.
- 5.1.4. Policy ED-P-14 states that that any proposal for economic development use, in addition to other policy provisions of the plan, will be required to meet all of 14 criteria, including the following:
- (a) It is compatible with surrounding land uses existing or approved;
 - (c) It does not harm the amenities of nearby residents;

(f) Adequate access arrangements, parking, manoeuvring and servicing areas are provided;

(g) It does not create a noise nuisance; and

(k) The site layout, building design, associated infrastructure and landscaping arrangements are of high quality.

5.1.5 Table 6 in Appendix 3 to the plan specifies a requirement for two car parking spaces per dwelling house.

5.2. Natural Heritage Designations

5.2.1. The appeal site is not subject to any natural heritage designation. The Lough Swilly Special Area of Conservation is about 0.8 kilometres to the south east.

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 environmental impact assessment report and carrying out of an environmental impact assessment may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- The proposed unit would add substantially to the range of structures already on this overdeveloped site and to the negative visual impact of the development.
- By its scale and mass this permanent structure would increase the overbearing detrimental impact on the neighbouring properties and result in an even greater loss of privacy to persons at the appellant's property.
- The relocated structures approved under planning permission 20/51422 do not appear to be built strictly in accordance with the permission. It is possible that the residence and car park now proposed cannot be constructed in the location designated on the site map.

- It is stated on the application form that the dwelling is for “own use” but the covering letter states that it would be for student use. Students would not be at the property for 12 months of the year and as no details have been provided about the occupancy rate, the sustainability is unknown. If the unit is not used on a full-time basis for student accommodation, would it be used as a bed and breakfast establishment or other short-term accommodation?
- What are the regulations in relation to fire hazards and biohazards to ensure the health and safety of students, guests or workers? How would the emergency services gain access to the unit outside working hours as it would be within an enclosed plant production complex?
- There is a huge issue with noise, disturbance and nuisance due to the existing development. It is impossible for the appellant to enjoy her property and garden due to the noise generated by machinery coming and going and constantly revving. The proposed residence would have potential to add further to the noise nuisance.
- The site is in an area of high scenic amenity. For over 20 years, the appellant had uninterrupted views of Lough Swilly and the surrounding hills. Due to the extent of development and the heights and widths of the existing structures, she can no longer enjoy the vista from her property. Numerous trees which are growing very tall surrounding the complex have also interfered significantly with the vista. The proposed residence would exacerbate the situation and her property would be devalued further.

6.2. Applicant Response

- The site is not overdeveloped. The approved structures mainly consist of polytunnels and netted structures for plant production and growing. They are single storey, low-impact units necessary for the business. The proposed residential unit would also be single storey with external cladding to match agricultural structures on site.
- The proposed unit would be about 22 metres from the neighbouring property boundary with a finished floor level 3 metres lower than the closest dwelling and existing planting/screening along the boundary. It would not have an intrusive

overbearing impact on neighbouring properties or a negative visual impact. It would have little or no impact on privacy and would not affect the privacy enjoyed by the appellant at her property.

- Although the work shed, polytunnels and netted structure granted permission under reference number 20/51422 were not erected exactly as approved, this error was corrected and the development now accords with the permission. The layout shown in the current application is correct and shows that there is sufficient room on the site for the proposed residential unit, car parking spaces, patio and pathways.
- Condition 2 in the schedule to the Council's decision requires the proposed residential unit to be used solely for staff accommodation, including short-term student placements, all of which shall be associated with the ongoing operational requirements of the adjoining garden centre and commercial animal farm / petting zoo, and not let or sold on separately as an independent living unit without a separate grant of planning permission. The unit would not be used as a bed and breakfast establishment or other short-term accommodation.
- The unit would be fitted with a fire detection system in accordance with the Building Regulations. The applicant does not foresee any biohazard which would affect the health and safety of the occupants. He would provide 24-hour access to the unit for emergency vehicles. A rainwater harvesting tank is located nearby to assist firefighting if required.
- Noise disturbance and nuisance related to the existing approved development are not relevant to this appeal. The siting of the proposed residential unit and the provision of two car parking spaces would not add significantly to noise.
- The proposed single storey unit would have minimal impact on the existing vista from the appellant's property which is located on more elevated land 30 to 40 metres to the north. The applicant disagrees with the suggestion that her property would be devalued.
- The appeal is without merit on planning grounds and is based more on vexatious grievances given the appellant's record of serially objecting to each and every application made by the applicant over the years.

6.3. **Planning Authority Response**

The Council wishes to rely on the planner's report and has no further comment.

7.0 **Assessment**

7.1. **Issues**

7.1.1 Having inspected the site and considered in detail the documentation on file for this Third Party appeal, it seems to me that the main planning issues are:-

- whether the proposed development is acceptable in principle at this location;
- whether the proposed design and layout are satisfactory; and
- the effect of the development on the amenity of neighbouring residents.

7.1.2. I must also consider whether an appropriate assessment (AA) is required pursuant to the European Union Habitats Directive (92/43/EEC).

7.2 **Acceptability in Principle**

7.2.1. This appeal does not provide an opportunity to review previous planning permissions relating to the garden centre. Consideration must be confined to the development now proposed. The appeal site lies within the town boundary of Letterkenny as defined in the County Development Plan. Residential use is acceptable on the site as are proposals for the extension of an existing business use. It seems to me therefore that the proposed development is acceptable in principle at this location, provided the detailed arrangements are satisfactory.

7.2.2. The Council attached a condition to its decision requiring the residential accommodation to be used solely for staff accommodation, including short-term student placements, associated with the existing garden centre and zoo business. Any materially different use, including as a bed and breakfast establishment, would not be authorised. In my opinion, this condition is consistent with the provisions of the Development Plan. I find the proposal acceptable in principle.

7.3 **Design and Layout**

7.3.1 The car parking area shown to the south west of the proposed unit on the site layout plan is currently occupied by polytunnels. An additional polytunnel has been stationed

on what is depicted as a grass area to the north east and the adjacent access road is blocked by a wire fence. However, it would still be possible to construct the proposed unit and car park in the location designated on the layout plan.

7.3.2. I agree with the Council that the location, scale, height and overall design are acceptable, given that the site is not overly visible from the public realm. However, having regard to the utilitarian commercial context within which the building would be placed, I see no need for a condition requiring consistency of materials.

7.3.3. The applicant would be required to comply with the Building Regulations in regard to fire safety. As the appellant has not explained what biohazards she is concerned about, in my view this matter need not engage the Board's attention. I consider that in the event of permission being granted, it would be necessary to attach a condition requiring 24-hour access to the unit for emergency vehicles.

7.4 Residential Amenity

7.4.1. I do not accept that the proposed structure would add significantly to the amount of development in the garden centre complex. It would not have an overbearing effect on the Meadow Hill properties which are at a higher level. It would have no material effect on the privacy of the appellant's property or block out existing views of Lough Swilly and the hills from the rear of her dwelling. The Council attached a condition to its decision requiring the workshop to be used only for low-audible uses associated with the existing business. It seems to me that a tightly worded condition of this kind would obviate the appellant's concern about noise nuisance from the appeal building specifically. All in all, I am not persuaded that the proposed development would have any undue effect on residential amenity.

7.5 Appropriate Assessment Screening

7.5.1 Having regard to the nature and scale of the proposed development on an urban brownfield site which is connected to the public mains, and to the physical distance to the nearest European site, it is possible to screen out the requirement for an appropriate assessment at an initial stage.

8.0 Recommendation

8.1. For the following reasons and considerations, I recommend that permission be granted, subject to conditions set out below.

9.0 Reasons and Considerations

9.1 Having regard to the location of the appeal site within the Letterkenny and environs plan boundary and its zoning as an area of established development, together with the nature and pattern of existing commercial development on and adjacent to the site, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenity of property in the vicinity. The development would therefore be in accordance with the provisions of the County Donegal Development Plan 2018-2024 and with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application. Reason: In the interest of clarity.
2.	The residential accommodation hereby approved shall be occupied solely by members of staff, including short-term student placements, associated with the ongoing operational requirements of the adjoining garden centre and commercial animal farm / petting zoo; and shall not be used as independent living units without a separate grant of planning permission. Reason: To ensure that the development accords with the County Donegal Development Plan 2018-2024.

3.	<p>The room marked “workshop” on the floor plan hereby approved shall be used only for light industrial purposes associated with the adjoining garden centre and commercial animal farm / petting zoo and no machinery which is audible outside the confines of the site shall be installed or used in the unit.</p> <p>Reason: To protect the amenities of the occupants of the units and of neighbouring properties.</p>
4.	<p>Unhindered access to the site shall be available for emergency vehicles at all times, day and night.</p> <p>Reason: In the interest of the safety of the occupants.</p>
5.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works, details of which shall be agreed in writing prior to the commencement of such works.</p> <p>Reason: In the interest of public health.</p>
6.	<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. The contribution shall be paid prior to the 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 the Board 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 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>

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.



TREVOR A RUE

Planning Inspector

17th December 2023