



An
Bord
Pleanála

Inspector's Report

ABP-317231-23

Development	Erection of a domestic garage with associated site works.
Location	10 Bracken Lea, Ballaghderg, Letterkenny PO, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2251752
Applicant(s)	Peter Rose
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Kieran & Jess Tracey
Observers	(1) Patsy Brennan, (2) Michael Callaghan, (3) Michelle O'Kane

Date of Site Inspection

23rd September 2023

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.122 hectares, is located within the housing development of Bracken Lea to the north of Letterkenny. The appeal site is occupied by a detached dormer style dwelling (no. 10). The site is defined by the dwelling and its curtilage, which includes a fenced off area to the rear with hardstanding and to east of such an area of scrub land with levels increasing moving east to west. Adjoining properties include no. 12 to the south and no. 9 to the north. The appellants' property is no. 14, which is located further south.

2.0 Proposed Development

2.1 Permission is sought for the construction of a domestic garage to the rear of an existing dwelling. The proposed garage has a floor area of 96sqm and is two-storeys with a ridge height of 6.478m.

2.2 Revised plans were submitted in response to further information with details provided of a retaining wall along the rear of the garage (east) and drainage.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 6 conditions. Of note are the following conditions.

2. Restriction on use ancillary to the enjoyment of the existing dwelling.

3. Retaining wall to be no higher than 1.2m.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (01/12/22): Further information required including a site section showing ground levels, finished floor levels, structures and drainage, and details of existing and proposed drainage works.

Planning Report (24/04/23): The proposed development was considered to be in accordance with the proper planning and sustainable development of the area. .

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

Four third party submission were received from...

Patsy Brennan,

Michelle O'Kane,

Richard Bonar,

Kieran & Jess Tracey

The issues raised can be summarised as follows...

- Three of the submission raised objections to the proposal with issues relating to excessive scale/inappropriate visual impact, adverse impact on adjoining amenities through overlooking, overshadowing/loss of light, lack of drainage proposals and existing surface water drainage issues within the housing development, impact on wildlife/biodiversity.
- One of the submission was supportive of the proposal.

4.0 **Planning History**

99/3483: Permission granted for 4 no. semi-detached dwellings and associated site works (granted 31/07/00).

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the County Donegal Development Plan 2018-2024 (as varied).

The site is zoned Established Development with a stated objective 'to conserve and enhance the quality and character of the area, to protect residential amenity and to allow for development appropriate to the sustainable growth of the settlement'.

The site is within an area of 'High Scenic Amenity'.

Policy NHP7

Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies County Donegal Development Plan 2018-2024 Part B: Objectives and Policies of the Plan Chapter 7: The Natural and Built Heritage Page 132 of this Plan, it is the policy of the Council 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.

Development Control Guidelines are under Appendix 3, Part B of the CDP.

5.2 Natural Heritage Designations

None within the zone of influence of the project.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Kieran & Jess Tracey. The grounds of appeal are follows...

- Excessive scale for a domestic garage, requiring excavation and will be visually obtrusive and a scar on the landscape.
- There is a lack of detail regarding discharge of surface water/run off with concern regarding discharge onto the public road or adjoining properties. Site clearance works have increased water flow and drainage issue in the estate.
- The proposal will cause overlooking of the appellants' property and result in a loss of light.
- The clearance works carried out have an impact on wildlife with reduced levels of birds and the applicant has removed a significant number of trees.
- Permission was previously refused on these lands due to instability of the lands (ref no. quoted).
- The applicant has a garage attached to their property with no justification for the proposals.
- There is concern regarding proximity of the development to a water tower with issues concerning leaks and burst pipes since site clearance was carried out.
- The site has been subject to an unauthorised development file regarding site clearance and the applicant has not restored the land.
- The proposal would generate construction traffic in the cul-de-sac which would cause a traffic safety issue.

6.2. Planning Authority Response

6.2.1 Response by Donegal County Council.

- The PA state that the issues raised in the appeal were dealt with in the planning reports associated with the application. The PA request that the Board uphold the decision to grant permission.

6.2.2 Response by the applicant, Peter Rose.

- The existing garage is being converted to a living space to accommodate elderly family members with a requirement for a new garage.
- The proposal will not overlook the appellants' property with no first floor windows on the southern gable facing. It is noted that windows on the rear elevations of the dwellings in the housing development are at a high head height.
- It is considered that the Planning Assessment carried out by the PA deals with all the issues raised by the appellants.
- The proposal includes drainage proposals and connection to existing drainage system in the housing development.
- The area to the rear of the existing dwelling is to be fenced and trees planted.
- The garage is on the same level as the existing house.

6.3. Observations

6.3.1 Three observations have been received from the following...

Patsy Brennan,
Michael Callaghan,
Michelle O'Kane

- These three observations outline support and no objection in relation to the proposal.

7.0 **Assessment**

7.1 Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development

Design, scale, adjoining amenity

Drainage/surface water/structural issues

Wildlife

Other

7.2 **Principle of the proposed development:**

7.2.1 Permission is sought for the construction of a domestic garage within the curtilage of an existing dwelling. The site is zoned established development with a stated objective 'to conserve and enhance the quality and character of the area, to protect residential amenity and to allow for development appropriate to the sustainable growth of the settlement'. The nature and type of structure proposed being a domestic garage ancillary to the enjoyment of the existing dwelling is acceptable within this zoning objective. The appeal submission questions the justification for a new garage with it noted that the existing dwelling has a garage. The applicant has indicated the intention to convert the garage to living space to cater for elderly family members. Notwithstanding such I would consider that the issue of justification is not a factor and the main issue relates to whether the design, scale and physical impact of the proposal is satisfactory.

7.3 **Design, scale, adjoining/visual amenity:**

7.3.1 The proposal has a floor area of 96sqm and a ridge height of 6.478m. The garage features a roller shutter door on the northern gable allowing for vehicular access and

features a storage area with stair access at first floor level. The structure is subordinate in scale to the existing dwelling and is located to the rear of such. The applicant submitted a site section that shows the finished floor level of the proposed structure is the same as the existing dwelling and the ridge height of the proposed structure is similar albeit marginally lower with a ridge height of 6.478m as opposed to 6.49m for the existing dwelling. Having regard to the location of the garage to the rear of the existing dwelling, its subordinate scale (floor area) relative to the existing dwelling and its ridge height being no higher than the existing dwelling on site and having a finished floor level matching the existing dwelling, the proposed development would not be visually obtrusive in the area.

7.3.2 As noted in the policy section the site is within an area designated as being of 'High Scenic Amenity'. The appeal site itself is within the curtilage of dwelling in a suburban housing estate on the outskirts of Letterkenny. I am satisfied that the proposed development does not have a significant or adverse visual impact in the wider area or compromise the scenic designation of the area and would not be visible due to intervening structures and topography.

7.3.3 In relation to adjoining amenities. The overall footprint of the structure is small and is located in an underutilised area to the rear of the existing dwellings, which have a fenced off boundary (gated access in the case of the appeal) site and is not within the defined curtilage of these dwellings. I would consider that the proposed development would have no significant impact in terms of overlooking or overshadowing, is small in footprint and sufficiently separated from the rear elevations of the existing dwellings. In terms of privacy there are no windows on the southern gable at first floor level (appellants' property is no. 14 to the south), with roof lights on the western roof plane and a window on the northern gable at first floor level. In the interest of adjoining amenity I would recommend that the window on the northern elevation at first floor level be omitted in the event of a grant of permission.

7.4 **Drainage/surface water/structural issues:**

7.4.1 In response to further information the applicant provided details of a drainage pipe to be provided to the rear of the retaining wall with surface water drainage to be connected to the existing drainage system serving the housing estate. The appeal submission raises concern regarding potential discharge of surface water/run off onto the public road and adjoining properties and raised concern regarding increased water flow as a result of works already carried out on site (site clearance). In this regard the applicant is proposing to connect to the existing drainage system within the housing development and has provided details of drainage to be provided in conjunction with the retaining wall. I would consider that this issue can be dealt with by way of an appropriate condition requiring surface water to be carried out in accordance with the Local Authority's requirements and for no surface water drainage to be discharged onto the public road or adjoining properties. In regards to the impact of any site clearance works it is difficult for me to know what such impact has been, however I would be of the view that the provision of an appropriate condition and a completed development in accordance with such is adequate to deal with such drainage issues.

7.4.2 In relation to concerns regarding stability of lands in question, the proposal entails provision of retaining wall to the rear of garage (west). I would also note that the carrying out of the development in a manner to ensure no structural instability of the lands to the rear is very much in the interests of the applicant also. I can see no reason that why the development cannot be carried out in a manner that would ensure such through appropriate construction management. In relation to the proximity to the water tower, the site appears to be sufficiently remote from such and the Local Authority have expressed no concern regarding its location relative to such.

7.5 **Wildlife:**

7.5.1 In regard to impact on wildlife I would reiterate that the site is located within an urban area and is zoned Established Development. The site does include a portion of land that is currently underutilised scrub land area. This portion of land is not designated as being of any significant natural heritage value and is not designated as a Natura 2000 site or Natural Heritage Area (NHA or pNHA). I have no reason to

consider that the provision a domestic garage within the curtilage of an existing dwelling part of an established housing estate would have a significant or adverse impact on wildlife or biodiversity at this location. Notwithstanding such the land further to the east adjoining the appeal site and adjoining dwellings are undeveloped and similar in nature to the rear part of the site meaning any wildlife on site would not significantly displaced.

7.6 Other Issues:

7.6.1 The appellants have raised concerns regarding site clearance works carried out on site and noted that there is an enforcement file and a failure to reinstate the site to its original condition. There does appear to have been some level of excavation work carried out on site with a cut into the embankment and stones laid on the ground. The development proposed has not commenced (garage). In this regard I would note that issues of enforcement do not fall under the remit of the Board with the Planning Authority having the power to deal with enforcement matters.

7.6.2 In relation to construction traffic and general construction impact, the nature and scale of the structure is modest and is ancillary to the use of the existing dwelling. In this regard the construction period is temporary and subject to appropriate construction management should have no significant or long lasting impact on adjoining amenities or cause any significant traffic safety issues.

8.0 Appropriate Assessment

8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend a grant of permission subject to the following conditions.

10.0 Reasons and Considerations

Having regard to the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities, character, or residential amenity of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the revised plans submitted on the 11th day of April 2023, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The window at first floor level on the northern gable of the proposed garage shall be omitted.

Reason: In the interests of residential amenity.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any

relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

4. Surface water runoff shall be discharged on site and shall not be allowed to discharge onto the public road or any adjoining properties.

Reason: In the interest of public health and surface water management

5. The proposed garage shall be ancillary to the enjoyment of the existing dwelling and shall not be used for any commercial purposes or as an independent dwelling unit.

Reason: In the interests of orderly development.

6. The construction of the development shall be managed in accordance with a Demolition and Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenities, public health, and safety.

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity

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.

Colin McBride
Senior Planning Inspector

25th September 2023