



An
Bord
Pleanála

Inspector's Report ABP318013-23

Development

Demolition of existing garage,
construction of double garage with
games room and gym to rear of
existing dwellinghouse and associated
site works.

Location

Rosstown Upper or Crockahany,
Rosstown, Co. Donegal.

Planning Authority

Donegal County Council.

Planning Authority Reg. Ref.

2252017.

Applicant(s)

Stephen & Melanie Patterson.

Type of Application

Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

Third Party

Appellant(s)

Paddy & Aisling O'Hagan.

Observer(s)

None.

Date of Site Inspection

16th December 2023.

Inspector

Richard Taylor.

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1.0 Site Location and Description

- 1.1. The appeal site is located within the curtilage of an existing two storey dwelling. The development is adjacent to the rear boundary and currently comprises garden area and hard surfaced car parking/driveway. There is an existing detached garage immediately adjacent to where the development is proposed. There is a further garden area located to the rear of the dwelling and north of the existing garage. The topography of the site is broadly level however it is slightly elevated above the adjacent public road. The site sits at a lower level than existing detached dwellings immediately adjacent to the site to the east and South. The dwelling and associated curtilage immediately to the rear is elevated approximately 5 metres above the appeal site. The rear site boundary is demarcated by a wall approximately 5 metres in height and finished in facing brick. The appellant is the occupier of the dwelling immediately to the rear of the site.
- 1.2. The appeal site is located within the designated settlement of Rosstown and forms part of a larger housing development area, all of which are accessed by a single road that is a cul-de-sac terminating to the southeast.

2.0 Proposed Development

- 2.1. The proposal was amended with revised plans received by the Council on 10th August 2023. The proposal comprises the erection of a one and a half storey double garage with games room and gym space at first floor to the rear of the existing dwellinghouse and associated site development works. The garage would have a floor area of 133.66 square metres. The existing garage is to be demolished.

3.0 Planning Authority Decision

3.1. Decision

A notification of decision to grant permission was issued by the council on 17th August 2023, subject to six conditions summarised as follows:

1. Development shall be carried out in accordance with lodged plans and details save as otherwise required below.

2. (a) Maximum Ridge height of 6.5 metres.
(b) Balcony on the northeastern elevation shall be omitted.
(c) Prior to commencement revised plans in accordance with (a) and (b) submitted to and agreed with the planning authority.
(d) Development shall not commence without the prior written agreement of the planning authority and thereafter only be authorised to commence in accordance with the agreed plans.
3. All external finishes to match the existing dwelling.
4. No surface water from the site shall discharge to the public road and applicants shall take steps to ensure that no public road water discharges onto the site.
5. Entrance shall incorporate an access channel or other similar drainage trap, together with suitable drainage pipe work in order to prevent discharge of surface water onto the public road and carry out prior to first occupation of the dwelling hereby permitted.
6. Garage shall be used solely for domestic purposes only and ancillary to the residential enjoyment of the parent dwelling house and shall not be used for any other purpose.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Local Authority planning report is dated 11th of August 2023 and countersigned on 15th August 2023. The report notes the following:

The proposed works comprise the demolition of 20.04 square metres of an existing garage on site.

The finished floor level of the proposed garage is 16.37 metres, the same level as the existing dwelling. The proposed ridge height is 7.885 metres. A drawing submitted on 10th August 2023 detailed a reduction in the length, massing, and floor area of the garage to 133.66 square metres.

Two third-party submissions were received. The first, received 31st January 2023, object on the basis of proximity to the existing retaining boundary wall. The second objection was received on 31st of January 2023 from the appellant and broadly repeats issues raised in the third-party appeal. No representations were received from any elected representatives.

Relevant policy considerations are set out in the county Donegal Development Plan 2018-2024. Relevant considerations are set out in policies NH-P-27, NH-P-7, NH-P-1, and appendix 3 of Part B of the County Donegal Development Plan “development guidelines and technical standards”.

The site is located within the Rossnowlagh settlement framework, and the principle of the development is acceptable subject to other considerations.

The height as originally proposed at 7.885 metres is considered too tall and overbearing on the site and adversely impacts on neighbouring properties.

The proposal includes a setback balcony with expansive glazing and glazed balustrade. Exterior includes a contemporary finish which is at odds with the existing dwelling and associated finishes and would read as being a distinct separate structure. A revised design discussion was held with the agent. The scale and fenestration of the structure was revised with a maximum ridge height of 6.5 metres and omission of the balcony feature. The amendments could be included as a condition to the permission.

The revised proposal would not impact neighbouring dwellings in relation to loss of privacy, overlooking or residential amenity due to separation distances. The development provides for adequate private amenity space. There are no changes proposed to the vehicle access to the property. The proposal will connect to existing drainage and water supply infrastructure.

Screening for appropriate assessment is not required in this instance and the proposal will not result in significant effects on the environment.

3.2.2. Other Technical Reports

An Taisce: No response received.

Department of Culture, Heritage, and Gaeltacht (DoCHG) (wildlife): No response received.

DoCHG (monuments): No response received.

4.0 Planning History

Appeal Site:

4.1.1 Permission granted, ref: 99/4223, for erection of extension to holiday home in 1999 for Leslie Mealiff.

Adjoining Sites:

4.1.2 Permission granted, ref: 21/51437, change of house design on site number one and associated site development works in 2021 for Greg and Jane Mitchell.

5.0 Policy and Context

5.1. Development Plan

The County Donegal Development Plan 2018-2024 is the operative plan for the area. It was formally made by the Elected Members of Donegal County Council on 9th May 2018 and has effect from 5th June 2018. Due to the nature of the development proposed and location of the site, the following aspects of the plan are relevant to the appeal:

1.7 Key Strategic Objectives of the County Development Plan: S-O-6: To protect, enhance and appropriately harness the unique quality and diversity of the environment in the County, through a wide range of measures, supported by proper planning and sustainable development.

Part B: Objectives and Policies of the Plan:

Chapter 6: Housing

6.2: Urban Housing

UB-P-27: Proposals for extension to a dwelling shall be considered subject to the following criteria:

- (a) The development reflects and respects the scale and character of the dwelling to be extended and its wider settlement;
- (b) Provision is made for an adequate and safe vehicular access and parking; and

(c) The proposal would not adversely affect the amenity of adjoining properties.

Chapter 7: The Natural and Built Heritage

The landscape of the County has been categorised into three layers of value and are illustrated on Map 7.1.1 of the Plan. These 3 Layers of value have been classified as areas of 'Especially High Scenic Amenity', areas of 'High Scenic Amenity' and areas of 'Moderate Scenic Amenity', none of the landscapes of County Donegal have been classified as Low Value. The site is located within an area of 'High Scenic Amenity' defined as follows:

Areas of High Scenic Amenity are 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.

7.1.3: Relevant Policies:

NH-P-7: 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 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.

NH-P-9: It is the policy of the Council to manage the local landscape and natural environment, including the seascape, by ensuring any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of the area.

NH-P-13: It is a policy of the Council to protect, conserve and manage landscapes having regard to the nature of the proposed development and the degree to which it can be accommodated into the receiving landscape. In this regard the proposal must be considered in the context of the landscape classifications, and views and prospects contained within this Plan and as illustrated on Map 7.1.1: 'Scenic Amenity'.

5.2. Natural Heritage Designations

The site is not located within or adjacent to any natural heritage designations within the development plan. The site is approximately 270 metres to the nearest Natura 2000 site, located at Donegal Bay SPA.

5.3. EIA Screening

Having regard to the minor nature and scale of the proposed development, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed 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 appellants have no issue in principle to the construction of garage, however they have reservations regarding the scale and height of the development.
- The proposal will be extremely detrimental to the use of the appellant's property and result in a significant loss of amenity, reducing the daylight into their garden sunroom, and removing their view. The upper level and roof will be approximately 2 metres above ground level on the appellants side of the boundary. The close proximity will result in obstruction of view from the sunroom, overshadowing of the garden, and remove their ability to enjoy this space.

- Existing garage is 20.04 square metres gross floor area whereas the replacement is 133.66 square metres representing a 6-fold increase in size from what previously existed and is comparable an area to a typical 3-bedroom semi-detached house.
- The new structure is located tight to the boundary with the appellant, less than two metres from their sunroom to the rear of the proposed development. The foundations of the existing boundary wall will be undermined no exploration of this matter has been undertaken by the applicant.

6.2. Applicant Response

- None received.

6.3. Planning Authority Response

- The planning authority refer to the original planning report on file, and make the following additional comments:
- The details of the application have been thoroughly assessed and a site inspection undertaken. The appeal has raised on grounds that the proposed garage is every large, will cause loss of amenity, daylight to the appellants and block their view. It is considered that a reduction in height to 6.5 metres ridge height would be acceptable.
- The planning authority notes that the original submission was for a garage with a floor area of 188.95 square metres and height of 7.885 metres with the provision of a balcony feature. Through conditions attached to a grant of permission, the balcony is to be omitted and the structure reduced to a maximum ridge height of 6.5 metres. The height is to facilitate storage at an upper level. This is considered to be a material reduction from what was initially proposed and will integrate as an ancillary structure within the site and area.

6.4. Observations

- None received.

6.5. Further Responses

- none received.

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. Appropriate Assessment (AA) also needs to be considered. The main issues, therefore, are as follows:

- (a) Principle of Development.
- (b) Residential amenity.
- (c) Boundary proximity and impacts.
- (d) Size of the proposal.
- (e) Appropriate Assessment (AA).

Each of these issues are considered in turn below.

- (a) Principle of Development.

7.2. The proposal is located within the rural town as designated in the plan and the curtilage of a dwelling. In principle ancillary structures and buildings can be facilitated where associated with residential uses as evidenced through exempted development, subject to certain stipulations as set out in the relevant sections of the planning act and associated legislation. Within the residential development sections of the plan, the policy stipulates requirements for ancillary residential development within an urban context.

7.3. The site is located within an area of high scenic value, and accordingly policies NH-P-7, NH-P-9, and NH-P-13 are key considerations. NH-P-7 does not preclude development, rather it states that the Council will seek 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”. Therefore, I consider that ancillary structures and buildings are acceptable in principle on this basis, subject to detailed considerations including design, visual, and amenity impacts.

(b) Residential and visual amenity.

- 7.4. In summary, the appellant states that the garage will result in a loss of residential amenity on the rear garden area, reducing the daylight into their garden sunroom, and removing their view. The Council consider the visual impact to be acceptable and that the replacement garage will not adversely impact on amenity subject to a reduction in ridge height to 6.5 metres.
- 7.5. The application site is located immediately to the northwest of the appellant's dwelling and associated garden area to the rear. The proposed garage rear elevation is located approximately 4 metres from the gable of the appellant's dwelling at the closest point. The garage is located immediately adjacent to the southeastern site boundary and would occupy the length of the boundary with the appellant's site. The garage would be sited approximately 16.71 metres behind the public road and associated footway, and approximately 3.4 metres from the rear elevation of the applicant's dwelling at the closest point. The aspect of these sites is such that the applicant's garage and dwelling are located due north of the appellant's site. There is also a dwelling to the southwest of the applicant site and to the west of the appellant's dwelling. The topography of the immediate context is such that the applicant's dwelling is located at a lower level than that of the appellant, to the extent that the boundary between the properties is demarcated by a retaining wall which is indicated as approximately 3.4m in height. The neighbouring dwelling to the west is also at a lower level than the appellant's site but elevated above the application site. The topography steadily rises to the southwest resulting in a stepped layout arrangement to broadly mirror the increase in site levels.
- 7.6. The purpose of the garage is for the storage of a range of bulky leisure items, with gym equipment housed at the upper floor level. The applicant has included photographic evidence within their appeal statement to this effect. The revised height of the garage is 6.5 metres above ground level, required by condition by the Council. This would result in approximately 2.2 metres of the upper floor and associated roof being visible from the rear garden area of the appellant's property. The built form would result in a reduced rear elevation of the garage above the elevated ground height within the appellant's property. The condition includes a requirement to submit agreed revised plans to reflect the amendments prior to commencement of the development.

- 7.7. The key issue in this appeal is the impact of the proposal on amenity. I have carefully considered the evidence presented from all parties and undertaken a visual assessment from within and around the sites in question. I note that the layout of the appellant's site is orientated in a broadly southwest (front) to northeast (rear) aspect. The applicants dwelling is orientated broadly northwest (front) to the southeast (rear).
- 7.8. Taking account of the aspect of the site, the sun path is such that impacts would be limited to late in the evening and that the majority of sunlight impacts would occur due to existing neighbouring properties to the west and east of the site. I conclude that the proposed garage would not significantly impact on the daylight and sunlight of the appellant's garden area. I also consider that the proposal would not have an overbearing effect given that the majority of built form would be the roof structure which would slope away from the boundary, albeit increasing in height. I conclude that the layout and relationship of the built form is reasonable given that the sites are located within an urban context.
- 7.9. The appellant has also appealed on the grounds of loss of view. I note from my visit that direct views across the applicant's driveway to the coast beyond is currently possible. The development plan does not include or identify this view as being subject to policy protection. There is also no evidence provided to confirm that this view is subject to protection. Accordingly, I conclude that this view is private and that there are no public interest or policy grounds for which permission could be withheld on this basis.
- 7.10. In relation to visual amenity, the proposed garage would be smaller in scale, height, and massing compared to existing buildings within the immediate vicinity of the site. Accordingly, I consider that the proposal is compliant with policy requirements to protect the high scenic value of the area.

(c) Boundary proximity and impacts.

- 7.11. The appellant states that the new structure is located tight to the boundary. The foundations of the existing boundary wall will be undermined, and no exploration of this matter has been undertaken by the applicant.
- 7.12. The evidence does not provide any supporting information that the construction of the proposal would compromise the boundary, or that it is not technically possible to

undertake the development without impact on the boundary. Any impact to the boundary structure is a matter outside the remit of the planning legislation. I therefore consider that this is a civil issue between the parties and that there is no policy or legislative grounds on which permission could be withheld on this basis.

(d) Size of the proposal

7.13. The appellant has appealed on grounds of excessive size of the garage proposal. The applicant has provided photographic evidence to demonstrate the range of leisure items for storage and support the design response. The Council has not provided a specific comment on this issue other than to confirm the proposal is acceptable subject to the revisions as set out in the planning condition.

7.14. I do not dispute the applicant's need for the proposal. However, this need must be balanced against the policy requirement to protect amenity. The development plan does not include specific policy restricting the size of ancillary buildings associated with a dwelling. Accordingly, each case must be assessed on its merits taking account of a range of factors, including the context of the site and potential amenity impacts. The assessment above concludes that no unacceptable impact on amenity will occur. The proposal will facilitate adequate curtilage parking provision and amenity space. I therefore conclude there are no policy or public interest grounds on which permission could be withheld on this basis.

(e) Appropriate Assessment

7.15. Having regard to the nature and scale of the proposed development 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.

8.0 Recommendation

8.1. I recommend a grant of permission, subject to conditions.

9.0 Reasons and Considerations

Having regard to the County Donegal Development Plan 2018-2024 and all material considerations, it is considered that, subject to compliance with the conditions set out

below, the proposed development would be in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application to the planning authority date received 10th August 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 and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interests of clarity.</p>
2.	<p>a. The maximum ridge height of the proposed garage shall be 6.5m.</p> <p>b. The balcony on the northeastern elevation shall be omitted.</p> <p>c. Prior to the commencement of development revised plans in accordance with Condition Nos. 2.a. and b. shall be submitted to the Planning Authority for written agreement.</p> <p>d. Development shall not commence without the prior written agreement of the Planning Authority and shall thereafter only be authorised to commence in accordance with the agreed plans.</p> <p>Reason: To define the terms of the permission, protect the amenities of the area and ensure orderly development.</p>
3.	<p>All external finishes shall match those of the parent dwelling save as hereinunder otherwise required.</p> <p>Reason: In the interest of residential amenities.</p>

4.	<p>No surface water from site shall be permitted to discharge to public road and the applicant shall take steps to ensure that no public road water discharges onto site.</p> <p>Reason: To prevent flooding.</p>
5.	<p>Entrance shall incorporate an access channel or other similar drainage trap, together with suitable drainage pipework in order to prevent discharge of surface water onto public road. Said works shall be carried out prior to first occupation of the garage hereby permitted.</p> <p>Reason: To prevent flooding.</p>
6.	<p>The garage shall be used solely for domestic purposes only ancillary to the residential enjoyment of the parent dwellinghouse and shall not be used for any other purpose but that business, residential or other without a separate grant of planning permission.</p> <p>Reason: To cater for orderly development.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</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.

Richard Taylor
Planning Inspector

26th January 2024