



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318358-23

<b>Development</b>	Retention of foundations, rising walls to sub-floor level, and floor slab, and permission for the erection of a private garage/storage shed and all associated site development works.
<b>Location</b>	Ballyliffin, Clonmany, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	23/50519
<b>Applicant(s)</b>	Orla McFeeley
<b>Type of Application</b>	Retention permission and permission
<b>Planning Authority Decision</b>	Grant, subject to 3 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	Sarah & Ann Doherty
<b>Observer(s)</b>	James & Gabrielle Walsh
<b>Date of Site Inspection</b>	19 <sup>th</sup> March 2024
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located 0.75km to the east of the centre of Ballyliffin on the Inishowen Peninsula. It forms part of ribbon development on the southern side of the R238, which is predominantly in residential use. The land rises to the south of this regional road. A detached two-storey dwelling house lies to the south of the site, and beyond it lies a hill known as Crockaughrim, which is a local high point. To the north of the site the land is laid out as elongated fields, which sweep northwards to the local golf links and a beach in Pollan Bay.
- 1.2. The site itself is of regular shape, and it extends over an area of 0.346 hectares. The northern and central portions of this site are in residential use. These portions are formally laid out to provide a two-storey dwelling house with a two-storey return, a freestanding single storey outbuilding and a garden shed to the rear of this dwelling house, and a driveway with an entrance off the regional road. The remainder of the residential curtilage is laid out as garden. The southern portion of the site lies beyond an ornamental hedgerow. An extension to the driveway provides access to this portion, and it accommodates the foundation and rising walls of the subject building in its south-western corner.
- 1.3. The northern boundary of the front garden in the site is enclosed by means of a wall and recessed entrance. The side boundaries of the northern and central portions of the site are enclosed by means of hedgerows. The eastern side and rear boundary of the southern portion of the site are enclosed by means of an agricultural fence. The remaining western side boundary is enclosed by means of a closely boarded timber fence with a line of semi-mature trees on the neighbour's side of the adjoining residential property.

## 2.0 Proposed Development

- 2.1. The proposal seeks the retention of foundations, rising walls to sub-floor level, and a floor slab, which has been laid out in the south-western corner of the site. The proposal also seeks permission for the erection of a private garage/storage shed and all associated site development works.

2.2. The proposed private garage/storage shed would be a freestanding, single storey building with a floorspace of 166 sqm. It would be of rectangular form under a double pitched roof. This building would have two vehicular doors, one pedestrian door, and one window in its eastern elevation. It would have two windows in its northern elevation, and one window in its southern elevation. (The western elevation would be blank). Internally, the building would be a single continuous space.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Following receipt of further information, the PA granted planning permission, subject to 3 conditions, one of which requires that the use of the private garage/store/shed be for domestic purposes only ancillary to the residential enjoyment of the parent dwelling house, i.e., any business use would need to be the subject of a separate planning permission.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. Planning Reports

Under further information, the PA requested that the applicant explain why she needs 166 sqm of garaging/domestic storage space. She outlined how her existing garage is used for domestic storage so negating the opportunity for garaging. Her husband and she each have a motor vehicle and he also has a vintage car, and plans to add to his collection in the future. Space would also be used to store turf and logs, and for the drying of clothes. Examples of comparably sized sheds that have been granted planning permission elsewhere in Donegal are cited.

The PA clarified that it does normally require an explanation as to usage in comparable cases to the current one, where the floorspace exceeds 80 sqm. It accepted the applicant's response.

##### 3.2.2. Other Technical Reports

None

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

See grounds of appeal.

## 4.0 Planning History

- 18/50586: Demolition of existing garage and erection of a replacement garage, and renovation and extension of existing dwelling to the front and rear with connection to all existing services and site development works: Permitted.
- 21/51591: (a) Elevational alterations to existing dwelling, (b) Retention of foundations, rising walls to sub-floor and floor slab and permission for erection of a funeral undertaker's building for the preparation for presentation of deceased persons, the storage of coffins and funeral furniture, the parking of a private ambulance and a funeral hearse and all associated site development works: At appeal (ABP-312373-22), (a) was permitted, and (b) was refused for the following reasons:
  - The proposed use would be incompatible with the residential use of the adjoining property, and it would be seriously injurious to its amenities. Under Policy ED-P-3, this use should be directed to a settlement, and so, under Policy ED-P-14, its location on the site would be inappropriate.
  - Given the proposed use, the applicant has not demonstrated how this use would be adequately serviced, and so it would be prejudicial to public health.

## 5.0 Policy Context

### 5.1. Development Plan

Under the Donegal County Development Plan 2018 – 2024, the site lies within an area of high scenic amenity. Policy NH-P-7 states that “It is the policy of the Council to facilitate development of a nature, location and scale that allows development to integrate within and reflect the character and amenity of the designation of the landscape.”

Policy RH-P-9 states that “It is a policy of the Council to seek the highest standards of siting and architectural design for all new dwellings constructed within rural areas and the Council will require that all new rural dwellings are designed in accordance with the principles set out in Appendix 4 of the County Development Plan, entitled ‘Building a House in Rural Donegal – A Location, Siting and Design Guide’.” Section 4.6 of Appendix 4 outlines key principles, one of which states that “Annex buildings and garages should be subordinate and sited to complement the main dwelling.”

### 5.2. Natural Heritage Designations

- North Inishowen Coast SAC & pNHA (002012)
- Trawbreaga Bay SPA (004034)

### 5.3. EIA Screening

See appendix.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The proposal would be excessive in size and visually obtrusive within a sensitive area. The Board previously refused the proposed building, and concern is expressed that, if it is now permitted, its originally proposed use as an undertaker’s, could still occur.

- The site is located within a rural residential area, outside the settlement of Ballyliffen. The site lies within an area of high scenic amenity and lands on the opposite side of the R238 lie within an area of especially high scenic amenity. Recognised north-easterly scenic views are available from the regional road.
- The appellants reside in the dwelling house on elevated lands to the south of the site, and so they would overlook the proposal.
- The proposal would have a footprint of 182.81 sqm (18.75m x 9.75m). Previously, the applicant received planning permission (18/50586) for, amongst other things, the demolition of an existing garage and the erection of a replacement one with a footprint of 52.7 sqm (8.5m x 6.2m), i.e., what is now proposed would be 3.5 times the size, thus giving rise to the concern that it might be the subject of a commercial use.
- The site layout plan shows an extensive area of vehicular circulation space but provides no details of drainage arrangements or where the existing on-site percolation area is.
- Concern is expressed that the proposal would lead to an intensification of vehicular movements to and from the site. Such movements would use the existing access point/driveway, which is, under Table 2 of Appendix 3 of the CDP, too steep. The R238, as it passes the site, has a continuous white centre line, is subject to an 80 kmph speed limit, and is heavily trafficked.
- Attention is drawn to examples of large storage sheds that the PA has refused. The applicant's reference to vintage cars could give rise to issues in the future for enforcement if such cars were also hearses. Likewise, deciphering domestic from any non-domestic storage would be challenging.
- Attention is drawn to the occupations of the applicant and her husband, and concern is expressed that, given the history of unauthorised development on the site, future compliance with conditions may not be forthcoming.
- The proposal would be of an unjustifiably large size for its proposed use, and so it would materially contravene Policy NH-P-7 of the CDP. This proposal would also, if it became the subject of a commercial use, contravene Policy

ED-P-13. The proposal is further critiqued by the appellants under the criteria set out in Policy ED-P-14.

## 6.2. Applicant Response

The applicant acknowledges the Board's previous decision under ABP-312373-22 to refuse the undertaker's use of the proposed building. She does not now have any plans for this use within the site. Nevertheless, she does need domestic storage space in excess of that which was previously proposed under 18/50586, hence the current proposal.

The applicant summarises the appellants' grounds of appeal, before responding as follows:

- The impetus for the appeal is the appellants concern that the proposed building would be used as an undertaker's business. The applicant has disavowed such usage, and so the Board cannot reasonably withhold permission based on this concern.
- The previous Board decision raised no concerns over the visual impact of the proposed building. The reporting inspector stated that "The development will not be overly visible from the public road or from adjoining properties, subject to full implementation of the proposed planting plan." The applicant would complete this plan, and so no visual impact concerns would arise.
- Likewise, no traffic issues were previously raised under a commercial use scenario and so none would now arise under a less onerous domestic use scenario.
- Furthermore, no Appropriate Assessment issues were held to arise previously, and so none would now arise.
- With respect to surface water run-off, a drainage channel would accompany the driveway and discharge into the roadside drain, and so surface water run-off would not affect the carriageway of the R238.
- Given the above commentary, and given, too, the availability of the Board's previous decision to the appellants, the view is expressed that the appeal has been made to simply delay the development and so the Board is requested,



under Section 138 of the Planning and Development Act, 2000 – 2023, to dismiss this appeal.

### 6.3. **Planning Authority Response**

- The PA assessed the current proposal on “its merits”. In doing so it took cognisance of the Board’s previous decision, and it conditioned the usage of the proposed building. As this use would be domestic, no intensification of vehicular movements would arise at the site access.
- If the authorised use of the proposed building is materially changed in the future, then the PA recognises the enforcement powers that are available to it.
- The PA has previously permitted large sheds in residential curtilages, to facilitate the storage of vintage cars or tractors. These sheds are considered to be like agricultural buildings in their size. The Board supported the PA in this respect in the case of a 200 sqm machinery storage shed, which it granted (ABP-310515-21).

### 6.4. **Observations**

The observers recount the recent planning history of the site. They express concern over what exactly was permitted by the PA, as further information was heavily redacted on its website. They draw attention to the speedy submission of the current application after the previous refusal, and to how the proposed building would be structurally identical to that which was previously proposed. While they would not object to a conventionally sized garage/storage shed, what is proposed would be excessive for these purposes.

### 6.5. **Further Responses**

None

## 7.0 **Assessment**

- 7.1. I have reviewed the proposal in the light of the County Donegal Development Plan 2018 – 2024, relevant planning history, the submissions of the parties and the

observers, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Development Plan, planning history, use, and access,
- (iii) Amenity,
- (iv) Water, and
- (v) Appropriate Assessment.

**(i) Legalities**

7.2. The applicant concludes her response to the appellants' grounds of appeal by stating that her proposal has been simply delayed by the appellants' appeal and so she requests that the Board exercise its discretion under Section 138 of the Planning and Development Act, 2000 – 2023, to dismiss this appeal.

7.3. I have reviewed the appellants' grounds of appeal. I consider that they raise material planning considerations that properly constitute an appeal, and so I do not recommend that the Board exercise its discretion under Section 138 to dismiss this appeal.

**(ii) Development Plan, planning history, use, and access**

7.4. Under the CDP, the site lies within an area that is designated to be of high scenic amenity. The regional road to the north of this site provides the boundary between this designation and that applied to lands to the north of this road, i.e., especially high scenic amenity. Protected views from the regional road lie to the north and to the north-east of it. Policy NH-P-7 applies to areas of high scenic amenity. This Policy states that "It is the policy of the Council to facilitate development of a nature, location and scale that allows development to integrate within and reflect the character and amenity of the designation of the landscape."

7.5. The site lies outside the settlement framework boundary around Ballyliffen, and in a stronger rural area. Under the proposal for this site, the applicant seeks to retain and complete a building, and so, under Policy RH-P-9 of the CDP, compliance with the PA's 'Building a House in Rural Donegal – A Location, Siting and Design Guide' is required. Section 4.6 of this Guide outlines key principles, one of which states that

“Annex buildings and garages should be subordinate and sited to complement the main dwelling.”

- 7.6. The planning history of the site is summarised under Section 4.0 of my report. This history illustrates that the applicant previously received planning permission (18/50586) to demolish her existing double garage and to build a replacement one in a position further away from her dwelling house within the central portion of the current application site. The demolition and building works thus authorised did not proceed. Under application 21/51591 and appeal ABP-312373-22, the applicant proposed the retention and completion of a building virtually identical to the one which is the subject of the current application. This application proposed that the building be used as a funeral undertaker’s building for the preparation for presentation of deceased persons, the storage of coffins and funeral furniture, and the parking of a private ambulance and a funeral hearse. It was refused on 23<sup>rd</sup> March 2023 as this use was deemed to be inappropriate to a residential location, and questions to do with the servicing of this use remained outstanding. The current application was made on 18<sup>th</sup> April 2023.
- 7.7. The submitted site location plan shows a line across the site, which coincides with the ornamental hedgerow that I observed on the site. This line/hedgerow marks the rear boundary to the formally laid out rear garden to the applicant’s residential property. It also marks what I describe as the boundary between the central and southern portions of the site. Given that the overall formally laid out residential use of the site is confined to the northern and central portions of the site, the question of the use of the southern portion of the site arises. Its agricultural fencing and unattended character suggest that it may not be the subject of any authorised residential use. Accordingly, the proposed retention and completion upon it of a building for ancillary domestic garaging/storage to the dwelling house on the northern and central portions of the site would appear to be premature.
- 7.8. The appellants and the observers express concern over the scale of the proposed building and question the need for it as ancillary domestic garaging/storage to the applicant’s dwelling house. They draw attention to the fact that this building would be 3.5 times the size of the proposed replacement garage, which the applicant previously received planning permission for. They also draw attention to potential

difficulties that may arise in ensuring that its use does not migrate to that of the previously refused funeral undertaker's.

- 7.9. Under further information, the PA request clarification of the need for the size of building proposed. It explains that such clarification is normally sought when a threshold of 80 sqm is exceeded. The applicant responded by outlining that the building would be used to garage her own car, her husband's car, and his vintage car. She anticipates that further vintage cars may be added to his collection in the future, and they would need garaging, too. The building would also be used to store turf and logs and to dry clothes.
- 7.10. During my site visit, I observed that an existing double garage serves the dwelling house and so it potentially affords the opportunity for garaging of cars and/or the storage of turf and logs. (The applicant states that this garage is presently used for domestic storage). It is immediately to the rear of the dwelling house, and so it is more conveniently placed than the proposed building would be. During my site visit, I did not observe any vintage car parked in the open on the site.
- 7.11. The applicant responds to the appellants and observers concerns by insisting that the proposed building would be used as now outlined and so it would be inappropriate for the Board to consider its previously proposed use. I concur with this view, and I consider that the proposed use and the building proposed to accommodate it need to be assessed, in the light of Policies NH-P-7 and RH-P-9 cited above. Consequently, the key question is whether the proposed building would be subordinate to the applicant's dwelling house and sited to complement the same.
- 7.12. The submitted application does not state the total floorspace of the applicant's dwelling house. However, from the planning history of the site, it appears that this floorspace is c. 227 sqm, and that of the existing double garage is c. 48 sqm. The existing relationship between this dwelling house and this garage exemplifies the twin requirements of subordination and complementarity.
- 7.13. The proposed building would have a floorspace of 166 sqm, which would represent almost three-quarters of the floorspace of the applicant's dwelling house, i.e., 73%. Accordingly, this building would not be subordinate in scale to this dwelling house, and its siting in the south-western corner of the site would be removed from the same, thereby negating the opportunity for any complementary relationship. Instead,

the proposed building would “read” as a substantial freestanding building, which would effectively be set within its own grounds comprising an extensive paved area and a row of 4 no. car parking spaces. Additionally, the submitted site layout plan indicates by means of notation that the existing entranceway would be altered, and the existing driveway would be widened in conjunction with the proposed building. The “need” for this *extensive* paved area and car parking spaces along with the said alteration and widening works is difficult to reconcile with the proposed use of this building as ancillary garaging/storage to the applicant’s dwelling house. Indeed, the proposed use would not ordinarily generate any increase in vehicular movements that would prompt the said paved area, car parking spaces, and works.

7.14. The PA cites appeal ABP-310515-21 by way of precedent for the current proposal. This application (21/50568) was for a 200 sqm shed to accommodate the applicant’s hobby of refurbishing vintage cars and tractors. It related to a site in an area of moderate scenic amenity. I consider that this application differed significantly both in its nature and landscape location from the current one, and so I do not consider that it establishes a binding precedent for the current application.

7.15. I conclude that the applicant has failed to establish that the southern portion of the site upon which the proposed building would be completed is authorised for residential use. The applicant has also failed to establish why the proposed use of the building would need to be accompanied by an extensive paved area, parking spaces, and an altered entranceway to the site and a widened driveway. Accordingly, the siting of an ancillary garage/storage building upon it would be premature. Furthermore, the building would not be subordinate in scale to the applicant’s dwelling house and its siting would negate any opportunity for a complementary relationship. It would thus have an adverse landscape impact.

### **(iii) Amenity**

7.16. The proposal would entail the completion of a freestanding building with a floorspace of 166 sqm in the south-western corner of the site. The site rises at a gentle gradient in a southerly direction. Consequently, the finished level of the floor slab of the subject building is 14.3m, whereas a spot height in the entranceway to the site is 9.41m. The building would be of elongated rectangular form under a double pitched roof. Its longer elevations would face east and west, and so its shorter gabled

elevations would face north and south. Its eaves and ridge heights would be 2.45m and 5.5m above ground floor level.

- 7.17. Notwithstanding the size and siting of the proposed building, public views of it from the R238 would be largely screened by existing and proposed landscaping. The site is adjoined to the west by the observers' residential property, and the appellants' two-storey dwelling house lies at some remove to the south on elevated land. The boundary between the observer's rear garden and the southern portion of the site is enclosed by means of a closely timber boarded fence, and a line of semi-mature trees. Views of the upper portion of the building from within this garden would be partially screened by these trees. Intermediate existing landscaping between the site and the appellants' dwelling house would, likewise, provide some screening. Within the site such screening would be augmented. Clearer views of the building would only be available from the more distant hill beyond this dwelling house.
- 7.18. The proposed use of the building is for private garaging/domestic storage. As a use ancillary to the existing dwelling house on the site, it would be compatible with the residential amenities of the area.
- 7.19. I conclude that, notwithstanding the size and siting of the proposed building, it would be capable of being screened by existing and proposed landscaping, and so visually its impact would be capable of being ameliorated.

#### **(iv) Water**

- 7.20. The submitted site layout plan shows that the proposed building would be served by rainwater goods that would be connected to the existing stormwater drainage system within the central portion of the site, which discharges to the public stormwater drain in the R238.
- 7.21. Under the OPW's flood maps, the site is not shown as being the subject of any identified flood risk. While lands to the north of the site are shown as having been the subject of recurring flood events, both the R238 and the site lie at higher levels than these lands.
- 7.22. During my site visit, I observed pipes within the floor slab, which appear to coincide with the foul water drainage arrangements that would have accompanied the previously proposed use of the building. Given the use now proposed, I consider that

the need for such foul water drainage arrangements would be superfluous, and so, if the Board is minded to grant, a condition should be attached omitting the retention of these pipes and requiring their removal. By the same, token a water supply to this building would not be required. This, too, could be conditioned.

7.23. I conclude that, subject to conditions, no water issues would arise.

#### **(v) Appropriate Assessment**

7.24. The site does not lie in or beside a European site. To the north of the site, at a distance of c. 430m, lies the North Inishowen Coast SAC, and further to the north-east lies the Trawbreaga Bay SPA. Under the proposal, a building that has begun to be built would be completed. It would be used for private garaging/domestic storage on an ancillary basis to the existing dwelling house on the site. I am not aware of any hydrological links between the site and either of these two European sites. Accordingly, no appropriate assessment issues would arise.

7.25. Having regard to the nature, scale, and location of the proposal, the nature of the receiving environment, and the proximity to the nearest European Site, it is concluded that no appropriate assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

That retention permission and planning permission be refused.

### **9.0 Reasons and Considerations**

1. It is considered that the applicant has failed to demonstrate that the southern portion of the site upon which the proposed building would be completed is authorised for residential use, and yet this building would be used for private garaging/domestic storage ancillary to the existing dwelling house on the northern and central portions of the site. Furthermore, the applicant has failed to demonstrate why the said use of this building, which would not generate additional vehicular movements to and from the site, would need to be accompanied by an extensive paved area, car parking spaces, an altered

entranceway to the site, and a widened driveway, all as indicated on the submitted site layout plan. In these circumstances, it would be premature to grant retention permission for the works already carried out and planning permission for the completion works needed to provide the proposed building for the said use. The proposal would thus be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the site in an area of high scenic amenity and Policies NH-P-7 and RH-P-9 and Appendix 4 of the County Donegal Development Plan 2018 – 2024, it is considered that, due to its size and siting, the building would fail to be either subordinate to or have a complementary relationship with the applicant's dwelling house and so it would be contrary to advice set out in Appendix 4 of the Development Plan. Accordingly, this proposal would contravene Policy RH-P-9, and, by extension, Policy NH-P-7 of the Development Plan. To grant retention permission for the works already carried out and planning permission for the completion works needed to provide the proposed building for use as private garaging/domestic storage would lead to a negative landscape impact, and it would risk the establishment of an adverse precedent for such oversized and poorly sited buildings in areas of high scenic amenity. The proposal would thus be contrary to the proper planning and sustainable development of the area.

*I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.*

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Hugh D. Morrison  
Planning Inspector

9<sup>th</sup> April 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-318358-23		
<b>Proposed Development Summary</b>	Retention of foundations, rising walls to sub-floor level, and floor slab, and permission for the erection of a private garage/storage shed and all associated site development works.		
<b>Development Address</b>	Ballyliffen, Clonmany, Co. Donegal.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	<b>Yes</b>		
	<b>No</b>	X No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>			Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
		N/A	<b>Conclusion</b>
<b>No</b>			No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_