



An
Bord
Pleanála

Inspector's Report

ABP-318575-23

Development	Erection of a domestic shed along with all associated site works.
Location	Ballyargus, Redcastle, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2351366
Applicant(s)	Patrick Curran
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party vs. Refusal
Appellant(s)	Patrick Curran
Observer(s)	None
Date of Site Inspection	2 nd March 2024
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located c. 750m southwest of the Redcastle village crossroads in the Inishowen peninsula, County Donegal. The site is at the eastern side of the peninsula, c. 150m from the shoreline of Lough Foyle. This is a rural area consisting primarily of agricultural land and one-off housing.
- 1.2. The site itself is generally of square shape and has a stated area of 0.36 ha. It is accessed via a private lane serving two adjoining dwellings to the northeast. There is currently a pedestrian pathway between the site and the applicant's existing dwelling to the east. The site slopes down steeply from northwest to southeast. It is bounded by a mixture of hedgerows and trees to the SW, SE, and NE. The NW boundary is undefined as the site is annexed from a larger field.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a domestic garage and associated siteworks. The application stated that the garage would be used to store machinery, vintage vehicles, and equipment over the winter months. It is stated that the development would be accessed from the adjoining land to the east via 'existing entrance and access lane granted under Ref no. 05/70318'.
- 2.2. The proposed development comprises a single level building with a floor area of 283m² and a maximum height of c. 6.8m. It includes one large space and smaller adjoining areas for use as a kitchen, office, and store. There are large roller doors on the front and rear elevations. The external walls include a mixture of concrete block, and stone, while the upper walls and roof would be finished in galvanised sheeting.
- 2.3. Despite a reference to a 'septic tank' and 'percolation area' on the site layout plan, there is no indication of the inclusion of sanitary facilities within the development. It is proposed that surface water would be discharged to the existing drainage network along the SE site boundary.

3.0 Planning Authority Decision

3.1. Decision

By order dated 3rd November 2023, Donegal County Council (DCC) issued notification of the decision to refuse permission. The reasons for refusal are as follows:

1. It is considered that the proposed development represents the disorderly and unnecessary extension of the applicant's residential curtilage and, due to location of the development, would result in the provision of a building that is neither visually or physically associated with the applicants residential property. Accordingly, it is considered that to permit the proposed development, would by itself, and by undesirable and unsustainable precedent, be contrary to the proper planning and orderly development of the area, particularly that of the residential sites and property generally.
2. It is considered that the proposed development is unacceptable due to its design, size and scale and would result in the provision of a prominent building in excess of that which would be considered commensurate, or reasonably demonstrable, with domestic needs arising ancillary to a dwelling house. Accordingly, it is considered that to permit the proposed development, would by itself, and by undesirable and unsustainable precedent, be contrary to the proper planning and orderly development of the area, particularly that of the residential sites and property generally.
3. The proposal is contrary to Policy F-P-4 of the County Donegal Development Plan 2018-2024 (as varied), in that it has not been demonstrated that the existing drainage network has capacity to accept additional storm / surface water run-off from the proposed development in accordance with 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' (DoEHLG 2009) therefore, if granted, would create an unacceptable residual flood risk to the site and surrounding area. Accordingly, to permit the proposed development would be prejudicial to public health and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The relevant aspects of the DCC planner's report can be summarised under the following headings:

Nature of the development

- Existing noise/lighting concerns are not material planning considerations and any "industrial activity" that occurs would require separate planning approval.
- It is acknowledged that a large outbuilding exists currently within the curtilage of the applicant's property. There is no supporting statement to justify the need for an additional domestic outbuilding.
- The footprint, height and materials of the proposed shed are not reflective of a domestic building. Insufficient evidence for the need for such a large building has been provided.

Design, layout, and Visual amenity

- It is acknowledged that the county road affords views over Lough Foyle, however it is considered that the integrity of the view has been somewhat diminished by the existing roadside development. The outward view is momentary and provided by what is essentially a short gap within an existing cluster of development. Having regard to the low-lying location of the proposed shed it is not considered that the proposed development would not materially alter the view (*sic*).
- The shed will be clearly visible from the public road where it will have Lough Foyle as a backdrop. It is considered that, given the scale of the proposed shed and type of materials used, it will be visually obtrusive and detract from the visual amenity and character of the rural area.
- Having regard to the extent of grounds that surround the applicants established residential curtilage it would seem that a domestic shed could be easily accommodated within same, which would result in a better interrelationship in terms of visual linkage and function.

Drainage, Flooding, and Environmental

- The existing drainage network discharges into part of Lough Foyle which falls outside the designated Lough Foyle SPA. Given the domestic nature of the proposed development and having regard to dilution factors no environmental concerns arise.
- The reference to a septic tank appears to be a misprint. It is assumed that the grey waters from the kitchen would connect and discharge to the applicant's existing wastewater system. Further clarification would be sought on same in the event of a grant of permission.
- The development will give rise to additional surface water runoff. There are other third-party dwellings located further downhill to the SE and further information would be required to ensure the existing drainage network has capacity. The PA is not satisfied that the proposal would not lead to a flood risk in the area.

Residential Amenity

- Considering the physical separation distances between the subject site and the neighbouring dwellings no issues remain in relation to loss of privacy, overlooking or residential amenity.

Traffic

- Given that the proposal, as described, is for a domestic shed there will be no intensification of the existing access. No traffic concerns arise.

Conclusion

- The report recommends to refuse permission and this forms the basis of the DCC decision.

3.2.2. Other Technical Reports

None.

3.3. **Prescribed Bodies**

Lough Agency: No objections subject to best environmental practice in pollution prevention and the protection of surface waters.

3.4. Third Party Observations

The planning authority received 8 no. third-party submissions. The issues raised can be summarised as follows:

- The applicant does not have legal interest in the land.
- Site Notice was not adequately erected.
- Noise/light pollution from existing activity/development and potential construction disturbance and industrial use associated with the proposed development, including traffic.
- The proposed development will generate additional traffic which will cause environmental pollution and compromise road safety.
- An industrial use is inappropriate for the character of a rural area and could lead to future additional development.
- The development would adversely affect property value.
- The need for an additional domestic space detached from the applicant's dwelling is questioned.
- The development will interfere with views from the county road.
- Inadequate servicing information has been provided.
- The application does not include a septic tank.
- No details have been submitted to prevent pollution of Lough Foyle.
- The proposal is contrary to development guidelines and technical standards regarding parking, loading bays, toilet facilities, storage of flammable chemicals, etc.

4.0 Planning History

There would not appear to be any recent relevant history relating to the application site. Under P.A. Reg Ref 23/50337, permission was recently refused (5th May 2023) for a similar proposal from the applicant on a site located c. 100m north of the appeal

site. The refusal reasons were similar but also cited concerns about proximity to an existing wastewater treatment system.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. In terms of landscape character, the county has been categorised into three layers of landscape value (Especially High Scenic Amenity', 'High Scenic Amenity' and 'Moderate Scenic Amenity'), which are illustrated on Map 7.1.1 of the Plan. The subject site is within an area classified as 'High Scenic Amenity', which are described as landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.
- 5.1.2. Policy **NH-P-7** seeks to facilitate development in areas of 'High Scenic Amenity' of nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.
- 5.1.3. Policy **NH-P-17** seeks to preserve the views and prospects of special amenity value and interest, in particular, views between public roads and the sea, lakes and rivers. Relevant proposals shall be considered on the basis of: importance value of the view in question; whether the integrity of the view has been affected to date by existing development; whether the development would intrude significantly on the view; whether the development would materially alter the view. In operating the policy, a reasonable and balanced approach shall be implemented so as to ensure that the policy does not act as a blanket ban on developments between the road and the sea, lakes and rivers.
- 5.1.4. Appendix 4 of the CDP outlines design guidance on rural housing. Section 4.6 'Key Principles' states that annex buildings and garages should be subordinate and sited to complement the main dwelling.

5.1.5. Policy **F-P-4** is not to permit development where flood or surface water management issues have not been, or cannot be, addressed successfully and/or where the presence of unacceptable residual flood risks remain for the development, its occupants and/or property or public infrastructure elsewhere including, inter alia, up or downstream.

5.2. **Natural Heritage Designations**

The nearest Natura 2000 site is the Lough Foyle SPA (Site Code 004087) located c. 850m to the southwest.

5.3. **EIA Screening**

The development is not of a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). Accordingly, I am satisfied that EIA or EIA screening is not required in this case.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicant has appealed the DCC decision to refuse permission. The grounds of appeal can be summarised under the following headings.

Design, layout, and visual impact

- The appeal contends that enclosed drawings demonstrate that the shed cannot be seen from surrounding roads and would not create a precedent.
- The appeal queries how the proposal can be considered disorderly or unnecessary development given that it is within close proximity of the existing dwelling and outbuilding.
- The building is of a simple design and is on a less prominent part of the site.

Need

- The applicant has a number of vintage vehicles and outdoor summer items that need to be protected from adverse weather conditions.

Drainage / Flooding

- The proposal is not contrary to Policy F-P-4 insofar as the local network has the capacity to accommodate the additional surface water run-off.

6.2. **Planning Authority Response**

The response refers to the DCC planning report and additional comments can be summarised under the following headings.

Visual Impact

- The shed will be clearly visible from the upper county road and the lower regional road.
- The footprint, height, and materials are not consistent with a domestic building and would have a detrimental impact on the character and scenic and visual amenity of the area.
- The proposal lacks any visual linkage to the existing dwelling and there is ample room to accommodate a domestic shed within the existing curtilage.

Need

- The PA is not convinced that there is evidence or justification for the proposed development.
- It also questions the need for an office and kitchen within a domestic shed.

Surface Water

- No storm water calculations or other evidence has been provided to demonstrate the capacity of the drainage network.
- The PA maintains its precautionary position that the proposal would create an unacceptable residual flood risk.

6.3. **Observations**

None.

7.0 Assessment

7.1. Having regard to the documentation submitted in connection with the application and the appeal, and having inspected the site, I consider that the main issues for assessment are as follows:

- The principle of the development
- Design, Layout, and Visual Amenity
- Drainage and Flooding.

7.2. The principle of the development

7.2.1. I note that third-party submissions and the planning authority have questioned the nature of the proposed development having regard to the scale and design of the proposed building and its location at a significant remove from the existing dwelling. I consider these concerns to be reasonable given that the scale, design (including an office and kitchen), and location of the development is not consistent with a typical domestic garage. These matters will be addressed in section 7.3 of this report.

7.2.2. Third parties and the planning authority have also questioned the need for the proposed development. Again, I would accept that the scale of the building is not consistent with domestic needs. And on inspection of the site, I noted that there are already two large outbuildings to the north side of the applicant's dwelling, comprising a tent-like structure immediately adjoining the dwelling and a permanent structure further north.

7.2.3. Notwithstanding the above concerns, I accept that permission has been sought for the construction of a domestic garage and I confirm that I will assess the proposal on its merits as such.

7.3. Design, Layout, and Visual Amenity

7.3.1. I note that Appendix 4 of the CDP outlines design guidance on rural housing and states that annex buildings and garages should be subordinate and sited to complement the main dwelling. I consider this guidance to be reasonable in the interests of orderly development and visual amenity. However, having regard to the significant scale and detached location of the proposed garage, I do not consider that it would be subordinate or complimentary to the existing dwelling.

- 7.3.2. Notwithstanding previously discussed concerns about the nature and use of the garage, I do not consider that the proposed design is domestic in character. In addition to its excessive scale, the building form, internal layout, elevational treatment, and external finishes are of an inappropriate industrial character. I do not consider that this would satisfactorily integrate with the applicant's dwelling or the rural character of the surrounding area.
- 7.3.3. The site is located within an area of 'High Scenic Amenity' in close proximity to the Lough Foyle shoreline, and CDP policy (NH-P-17) seeks to protect views between public roads and the sea, lakes, and rivers. The planning authority has maintained that the development would be clearly visible from the upper county road and lower regional road (R238) and that it would be visually obtrusive and would detract from the visual amenity and character of the area. However, regarding views over Lough Foyle from the upper county road, the planner's report appears to conclude that the integrity of the view has been somewhat diminished; that the outward view is momentary; and that the proposed development would not materially alter the view.
- 7.3.4. Having inspected the site, I consider that the site is exposed over a significant distance of c. 200m along the upper county road to the west. And having regard to the excessive scale and inappropriate industrial-like design of the proposed development, I consider that it would form an obtrusive feature that would intrude significantly on views of Lough Foyle and would fail to integrate within and reflect the character of this rural area of 'High Scenic Amenity'. Accordingly, the proposed development would be contrary to CDP policies NH-P-7 and NH-P-17.
- 7.3.5. I have also considered the visual impact from the lower regional road (R238) along the shoreline. From viewpoints along this road, I note that the appeal site is largely screened by steeply rising topography, dense vegetation, and existing development. The existing dwellings to the north and northeast of the site are only marginally and intermittently visible from limited viewpoints, and it would appear that the proposed development would have a similar impact.
- 7.3.6. I note that the appeal contains drawings/images which purport to demonstrate that the proposed development cannot be seen from the adjoining roads. However, the images are limited in scope (1 viewpoint on each road) and are taken from selective locations where the proposed development would be screened. Consistent with my

foregoing assessment, I consider that the scale and design of the proposed development would detract from the character and amenity of the area in an unacceptable manner, particularly when viewed from the upper county road.

7.4. Drainage and Flooding

- 7.4.1. It is proposed that surface water would be collected in gullies and discharged by pipe to the existing drainage network (open drain along the SE site boundary). The planning authority contends that the application has not demonstrated the capacity of the drainage network to accommodate the surface water run-off and outlines a precautionary position of unacceptable residual flood risk.
- 7.4.2. While I have outlined concerns about the excessive scale of the development in the context of its domestic nature, I would accept that the scale of the development is still relatively minor in the context of the wider drainage network capacity. Accordingly, subject to standard drainage design measures, I do not consider that the proposed development would be likely to significantly impact on drainage capacity or result in an unacceptable flood risk.
- 7.4.3. In relation to water quality, I note the submissions from the Loughs Agency regarding the need to prevent pollution and protect surface waters. However, having regard to the limited scale of the development relative to the wider drainage network, and consistent with the Loughs Agency submission, I am satisfied that the employment of standard best environmental practice would satisfactorily address any concerns in this regard.
- 7.4.4. I note that the site layout plan includes references to wastewater treatment. However, the application does not propose to include sanitary facilities or a wastewater treatment system. Accordingly, the references would appear to be in error, and I do not propose to examine this matter any further.

8.0 **Appropriate Assessment Screening**

- 8.1. I consider that there would be limited potential for impacts at construction stage as a result of the release of sediment and other pollutants to watercourses/groundwater that may be hydrologically linked with the Natura 2000 network. At operational stage, any potential for effects is limited to impacts on the quantity/quality of surface water to the surrounding drainage network and the water quality of Natura 2000 sites.
- 8.2. The nearest Natura 2000 site is the Lough Foyle SPA (Site Code 004087) located c. 850m to the southwest). Notwithstanding the presence of a drain along the SE site boundary, there would not appear to be a direct pathway between the development and the Natura 2000 site. The part of Lough Foyle nearest the site is not within the designated SPA. And having regard to the significant separation distance between the appeal site and the SPA, the relative scale of the proposed works, and the significant hydrological buffer and assimilative capacity between the appeal site and the Natura 2000 network, I do not consider that there is any likelihood of significant effects in this case.
- 8.3. Having regard to the above preliminary examination, it is concluded that no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site. No mitigation measures have been relied upon in reaching this conclusion.

9.0 **Recommendation**

Having regard to the foregoing, it is recommended that permission should be refused for the reasons and considerations set out hereunder.

10.0 Reasons and Considerations

It is the policy of the County Donegal Development Plan 2018-2024 (Policy NH-P-7) that development within areas of 'High Scenic Amenity' should be of a nature, location and scale that integrates within and reflects the character and amenity designation of the landscape, while Policy NH-P-17 seeks to preserve views between public roads and lakes. The Development Plan (Part B, Appendix 4) also outlines that annex buildings and garages should be subordinate and sited to complement the main dwelling. Having regard to the detached and exposed siting of the proposed building, together with its excessive scale and design of an industrial character, it is considered that the proposed development would form an obtrusive and incongruous feature which would not be subordinate or complimentary to the main dwelling, would significantly and materially intrude on views of Lough Foyle, and would not integrate with or be reflective of the character of this landscape of 'High Scenic Amenity'. The proposed development would be seriously injurious to the visual amenities of the area, would be contrary to the aforementioned provisions of the Development Plan, and would, therefore, 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.

Stephen Ward
Senior Planning Inspector

3rd March 2024