



An
Bord
Pleanála

Inspector's Report

ABP 318686-23

Development	(a) Elevational alterations to existing dwelling and (b) Construction of extension to existing garage and change of use of same to apartment to rear of existing dwelling and all associated development works
Location	Saint Oran's Road, Ardaravan, Buncrana, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2350876
Applicant	Dipak Dhakal
Type of Application	Permission
Planning Authority Decision	To grant permission with conditions
Type of Appeal	Third Party
Appellants	Claire and Don McColgan, Liam and Mary Magee and Sarah Downes
Observers	None
Date of Site Inspection	25 th April 2024
Inspector	Trevor Rue

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Submission	5
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	6
5.3. EIA Screening	6
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	8
6.3. Planning Authority Response	9
7.0 Assessment	9
8.0 Recommendation.....	11
9.0 Reasons and Considerations.....	12

1.0 Site Location and Description

- 1.1. The application site, with a stated area of 0.078 hectares, is located on the R238 about 0.6 kilometres to the south of the centre of Buncrana.
- 1.2. The site comprises a rather rundown detached 1½-storey dwelling and its L-shaped curtilage. There is a garage with a pitched roof in the back garden. There are separate vehicular and pedestrian accesses to the public road. Ground levels fall by about 1.5 metres from the back of the house to the rear of the site.
- 1.3. The surrounding urban area is predominantly residential. To the rear of the site and at a significantly lower level there is a detached property known as The Bungalow, which is at the end of a narrow street called Victoria Crescent (or The Crescent).

2.0 Proposed Development

- 2.1. The proposal has the following elements:
 - A fully glazed porch would be created at the front of the dwelling and the back wall would be squared off. The dwelling would have a zinc roof, walls finished in smooth plaster and polyvinyl chloride (pvc) triple-glazed windows and doors.
 - There would be four bedrooms, each with en-suite facilities, a toilet, a dining/kitchen area and a living room on the ground floor of the dwelling and two bedrooms in the upper-floor roof space.
 - The length of the outbuilding, currently a garage, would be increased from 9.63 to 10.03 metres, its width from 3.11 to 5.60 metres and its ridge height from 3.88 to 4.16 metres. The building would be clad in zinc and would have a black pvc fascia and soffit and pvc triple-glazed windows and doors.
 - The outbuilding would be repurposed to accommodate a bedroom, a bathroom, a kitchen and a living/dining area.
 - Three parking spaces and a turning head would be constructed adjacent to the outbuilding at the back of the site, accessed via the existing road entrance.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 16th November 2023, Donegal County Council decided to grant permission subject to five conditions. Condition 1 stated that the overall property is to be used as a single-family residence; that the garden flat is to be occupied only by a dependant member of the family residing in the principal and original but altered house; and that the site is not to be subdivided and/or sold as two or more separate residences. Condition 2 required the applicant to ensure that no surface water from the site is permitted to discharge to the public road.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. A planner's report was produced on 9th August 2023 and, following the submission of further information by the applicant, a second report was produced on 8th November 2023. These reports provided the reasoning for the authority's decision.
- 3.2.2. The planner's assessment may be summarised as follows:
- In principle the refurbishment of the house is welcomed. The absence of a back door on the proposed ground floor would be addressed under Building Regulations as opposed to being a planning issue.
 - The planning authority cannot determine how many bedrooms are or have been on the ground floor. Under Section 4(1)(h) of the Planning and Development Act 2000, certain internal alterations can be made to a structure as exempted development.
 - The internal layout of the proposed refurbished house does not appear to be conducive to the provision of a conventional family residence. A commercial guesthouse has not been applied for but could be effected as exempted development unless such a change of use contravened a planning condition.
 - The two-bedroom apartment originally proposed in the outbuilding would not comply with "Sustainable Urban Housing: Design Standards for New Apartments" (2007) as it would have a floor area of only 32.82 square metres.

The applicant submitted a revised plan that shows a one-bedroom apartment / garden flat with a floor area of 45.73 square metres; the minimum permissible floor area is 45 square metres. This is satisfactory to the planning authority.

- Considering the physical separation distances between the application site and the neighbouring dwellings, no issues arise in relation to loss of privacy, overlooking or residential amenity.
- The site has sufficient capacity to ensure the development provides for adequate private amenity space.
- The applicant was advised that the planning authority had serious concerns about the standard of vehicular access to and from the site and serious reservations about granting permission for development that would give rise to a material intensification of traffic using the access on to the public road. The applicant responded that the dwelling would be used for family living and the ancillary accommodation would be occupied by a family member. This should be tied down by condition in the interest of preventing a material intensification of use of the vehicular access.
- For wastewater treatment, potable water supply and storm water disposal, it is proposed to use existing connections serving the existing residence.

Other Technical Reports

- 3.2.3. The planning authority consulted the Area Roads Engineer but received no response.

3.3. Prescribed Bodies

- 3.3.1. The planning authority consulted the Department of Housing, Local Government and Heritage in regard to wildlife and monuments but received no response.

3.4. Third Party Submission

- 3.4.1. The present appellants made a submission to the planning authority, the substance of which were repeated in their appeal to the Board.

4.0 Planning History

- 4.1. No record

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Map 13.1 of the County Donegal Development Plan 2018-2024 shows the application site included in an area of established development in the town boundary of Buncrana. It is stated in Table 13.2 of the Plan that the objective for this zone is to ensure the protection of the character and biodiversity of established areas and to allow for new development that is both appropriate and orderly in the context of the established area.
- 5.1.2. Policy UB-P-27 states that 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.
- 5.1.4. Table 4 in Appendix 3 to the Plan sets a standard stopping sight distance of 45 metres where the design speed is 50 kilometres per hour. Table 6 specifies a requirement for two car parking spaces per dwelling house.

5.2. Natural Heritage Designations

- 5.2.1. The application site is about 200 metres from the Lough Swilly Special Area of Conservation, whose qualifying interests are estuaries, coastal lagoons, Atlantic salt meadows, Molinia meadows, old sessile oak woods, harbour porpoise and otter. The site is also about 200 metres from the Lough Swilly Special Protection Area for birds.

5.3. EIA Screening

- 5.3.1. The proposed development is not one to which Schedule 5 to the Planning and Development Regulations 2001, as amended, applies. The submission of an

environmental impact assessment report and the carrying out of environmental impact assessment are therefore not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The objections submitted by the appellants, who have addresses in St Oran's Road and The Crescent, Buncrana, may be summarised as follows:

- The layout is not consistent with a family home. The original plans showed 16 bed spaces, a sure indication of commercial use. Company formation documents for Sherpa Inn Limited, with an address at Derryowen, St. Oran's Road, Buncrana (the application site) were attached. The applicant is listed as a director of the company. Although it is stated on the application form that the applicant owns the site, a Land Registry folio document is provided which shows that the company secretary, Samjhana Kc, is the full owner.
- The existing floor plan of the house and its exterior appearance are familiar to the residents and are not as portrayed in the submitted floor plans and elevations. The planning application is also at odds with the details advertised when the house was sold. Illustrations of the actual layout are provided. The ground floor has three reception rooms and two, not four, bedrooms.
- The existing roof has red slates, the fascia and soffit are white and the walls have a dry dash finish. The house does not have blue/black slates, a black fascia and soffit and a smooth plaster finish. All the existing characteristics of the beautiful 1935 dwelling, which still has all its original features intact, are proposed to be removed. The application is misleading in this regard.
- A review of the submitted drawings showing the existing garage and the self-contained apartment that the Council has decided to approve indicates that the development is by no means an extension to an existing garage. The existing roof of the garage appears to consist of asbestos profiled sheets and not black slates as stated in the planning application. The plans are for an entirely new prefabricated structure, almost twice the size of what was originally applied for.

- Inexplicably, no new planning notices were issued. The planning authority did not consider that the revised plans and the further information submitted would cause any additional impacts on third parties.
- This is an area with older Victorian houses of exceedingly high esteem and quality. The alterations to the house and the apartment building, which would have a zinc-clad finish, would impact negatively on the character of the existing dwelling and would not be in keeping with the houses in the locality. The size, bulk and design of the proposed apartment fails to reflect and respect the scale and character of the dwelling and the character of the surrounding environment. The proposal contravenes Policy UB-P-27 of the Development Plan.
- Sightlines for vehicles exiting the house are extremely poor with little to no visibility in one direction as the entrance is located on a bend. When approaching from the north east, it is impossible to pull into the driveway without crossing the continuous white line in the centre of the road. When exiting to the left, vehicles are also likely to breach the line.
- The applicant is seeking permission to create additional car parking spaces in the rear garden, which strongly indicates that there would be an increase in vehicle movements entering or exiting the site.
- The boundary between the application site and the Bungalow is a low-lying wall. The proposed apartment would be very close to that property. There would be two windows in the rear elevation of the apartment facing the house, the whole of which would be overlooked.
- The proposed parking area would inevitably lead to surface water runoff. It is very unlikely that this could be drained to the front of the site due to ground levels. The Bungalow would therefore be affected by runoff.

6.2. Applicant Response

- 6.2.1. The applicant did not respond to the Board's invitation to make submissions or observations within the period specified.

6.3. Planning Authority Response

- 6.3.1. The planning authority wishes to rely on the contents and assertions of the planner's report of 8th November 2023 which recommended a decision to grant permission.

7.0 Assessment

7.1. Issues

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

- the ownership of the application site;
- the accuracy of the plans;
- effects on the character of the dwelling and the area;
- impacts on the residential amenity of The Bungalow; and
- road safety.

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

7.2. Ownership of the Site

- 7.2.1. The evidence indicates that it would have been more correct had it been stated on the application form that the site is owned by the secretary of Mr Dipak's company rather than by Mr Dipak himself. However, in my opinion this inaccuracy is not of such significance as to invalidate the Council's decision or the appeal to the Board.

7.3. Accuracy of the Plans

- 7.3.1. It was immediately obvious when I inspected the site that the appellants' description of the external appearance of the existing dwelling and outbuilding is right and that the depiction of the buildings in the submitted elevations is wrong and misleading.
- 7.3.2. The applicant did not take the opportunity to rebut the appellants' evidence that the room layout shown on the existing ground floor plan is also wrong and at odds with the description provided by the estate agent when the property was for sale. It seems implausible that when the dwelling was last occupied there were six bedrooms and

only one living room. I therefore proceed on the assumption that there were just two bedrooms on the ground floor and two on the upper floor.

7.4. Effects on the Character of the Dwelling and the Area

- 7.4.1. The policy objective for the area of established development in Buncrana identified in the County Development Plan is to protect its character and biodiversity and allow for new development that is appropriate and orderly. The words “appropriate” and “orderly” are capable of encompassing a wide range of planning considerations.
- 7.4.2. The existing dwelling, though nearly 90 years old, is not a protected structure and it is not in an Architectural Conservation Area. It seems to me that reasonable latitude should be afforded to the applicant to make alterations to elevations, provided they do not degrade the character of the building or the wider area. In my judgement, the proposed wall materials, fenestration changes and new porch are acceptable.
- 7.4.3. While I do not consider it essential to replicate all the materials used in the 1930s, I am of the opinion that any modern materials used should be compatible with the style of the original dwelling. In my view, the proposed zinc roof and zinc-clad apartment building would have an unacceptably jarring effect on the appearance of the dwelling and be wholly out of keeping in the surrounding area, where there are several properties of notable architectural merit. The proposed development would not protect the character of the established area and would not be appropriate in its wider context.

7.5. Impacts on the Residential Amenity of The Bungalow

- 7.5.1. The proposed apartment would be positioned about 5 metres from the boundary with The Bungalow. There would be two windows in the rear elevation facing that property. One would be a small bathroom window; a condition could be attached to ensure that obscure glass was used. The other, larger window would serve the bedroom. It would be positioned close to the back corner of the garage that serves The Bungalow. Views into that property would be inhibited by the sharp change in levels and by a high section of wall that runs from the rear of the garage to the rear of the dwelling.
- 7.5.2. It seems to me that it would be the applicant’s responsibility to prevent surface water from the proposed parking area flowing into the neighbouring property. The existing boundary wall would assist by acting as a barrier during normal weather. Should the Board decide to permit the development, it could attach a condition requiring that all surface water generated within the site be collected and disposed of within the site

and that no surface water discharges on to the public road or adjoining properties. Subject to such a condition, I am not persuaded that the proposed development would have an undue impact on the residential amenity of The Bungalow.

7.6. Road Safety

- 7.6.1. The vehicular access serving the application site adjoins St. Oran's Road within a concave bend where there is no footway. Visibility is infringed by entrance pillars. It is necessary for a driver exiting the site to nose out in order to see traffic coming from either direction. Forward sight distance to the site from the south west falls far short of the 45 metres specified in the Development Plan. The access is not only substandard; it is dangerous.
- 7.6.2. The proposed development would result in an increase in the number of bedrooms from four to seven and in the construction of three car parking spaces to replace a single garage. Even if the property were occupied only by members of the same family as required by the Council's condition, the development would still facilitate a substantial intensification in the use of an unsafe access.
- 7.6.3. I appreciate that in theory the number of bedrooms in the existing dwelling could be increased by making purely internal alterations which do not require planning permission. However, that is not what the applicant is proposing to do. The development proposed in the planning application would be prejudicial to public safety and therefore cannot be regarded as appropriate or orderly.

7.7. Appropriate Assessment Screening

- 7.7.1. Having regard to the nature and scale of the proposed development in an existing residential curtilage in a built-up urban area where existing services are available, and to the limited extent of the foreseeable emissions therefrom, it is possible to screen out the requirement for the submission of a Natura impact statement and the carrying out of an AA at an initial stage.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused.

9.0 Reasons and Considerations

- 9.1. Having regard to the County Donegal Development Plan 2018-2024, it is considered that by the use of inappropriate materials the proposed development would injure the character of the existing dwelling and of the area of established development in Buncrana; and that it would facilitate a substantial intensification in the use of a dangerous access, thereby prejudicing public safety. For these reasons, a grant of permission would 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.



TREVOR A RUE

Planning Inspector

26th April 2024