



An
Bord
Pleanála

Inspector's Report

ABP-319366-24

Development	Demolition of an existing duplex dwelling, reconstruction of a new duplex dwelling and all associated site works.
Location	Numbers 77 & 77A Gleann Tain Manor, Carnamuggagh, Letterkenny, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2460008
Applicant(s)	Michael & Yvonne Shevlin and Oommen & Winne Varghese.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party.
Appellant(s)	Stewart Skelly and Ravi Ningegowda.
Observer(s)	None
Date of Site Inspection	9 th July 2024

Inspector

Ronan O'Connor

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1.0 Site Location and Description

- 1.1.1. The subject site comprises a stated area of 0.028ha. The site is located within the Gleann Tain Manor residential development which is generally characterised by 2 storey semi-detached units. An existing 2 storey semi-detached building is located on the subject site which comprises 2 no. apartments (1 no. at ground floor level and 1 no. at first floor level), each accessible via independent entrances (77 & 77A).
- 1.1.2. Access to the site is off the adjoining private internal access road within the Gleann Tain Manor development.

2.0 Proposed Development

- 2.1. Demolition of an existing (defective/mica) duplex dwelling, reconstruction of a new duplex dwelling and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission [decision date 29th February 2024].

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report (dated 27th February 2024) is summarised below.

- Notes content of the 3rd party submission/is of the view it is a civil matter.
- Principle of replacement duplex dwelling is acceptable.
- Proposed footprint and ridge height will be same as existing.
- Access is also similar.
- Design is reflective and in-keeping with the character of the surrounding dwellings.
- No issues in relation to amenity.

- Access is as existing.
- Recommendation to grant permission.

3.2.2. Other Technical Reports

Taking in Charge [dated 20/02/2024] – No observations.

3.2.3. Conditions

3.2.4. There are no conditions of particular note.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. 1 no. third party observation was received at application stage. This is summarised in the Planner's report. The issues raised as similar to those raised in the grounds of appeal summarised in Section 6.1 below.

4.0 Planning History

046420 Grant permission 18 no. Two-storey dwellings; 4 no apartment blocks consisting of 16 no. Units; and other works

036457 Grant permission. 42 no. Two storey dwelling houses, 5 no.

Apartment blocks consisting of 20. No. Units and other works.

01/6463 Grant permission for new entrance road, carry out site works, erection of technology building approx 1000sqm, creche with 4 no apartments over, nursing home with 48no bed spaces and all ancillary accommodation

5.0 Policy Context

5.1. Development Plan

Donegal Development Plan 2024-2030.

Relevant provisions are:

Section 6.1.20 – refers to the provisions of Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks (2022).

Where applications for the demolition and rebuilding of a home are submitted by a homeowner (separate to the provisions of S28 of the 2022 Act) these will be assessed as a replacement dwelling having regard to current policy. The commitment of the Council is to ensure that properties affected by defective concrete blocks are identified and managed as significant applications and they will be managed in a way that ensures as early a decision as possible after the mandatory 5-week public consultation period.

5.2. Natural Heritage Designations

5.2.1. The nearest designated sites are as follows:

- River Swilly Valley Woods pNHA - located 1.6km to the east of the site
- Lough Swilly SPA – located 2.7km to the east of the site.

5.3. EIA Screening

5.3.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

5.4. AA Screening

5.4.1. Having regard to the minor nature and scale of the proposed development, the site location outside of any protected site, the nature of the receiving environment and the proximity of the lands in question to the nearest European Site (Lough Swilly SPA – located 2.7km to the east of the site), it is my opinion that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. 1 no. third party appeal was received on 22nd March 2023 from Stewart Skelly and Ravi Ningegowda. The grounds of appeal are summarised below:

- Proposal is to demolish and rebuild 2 no. apartments in a 4 apartment building/knocking the left half and leaving the other half standing.
- Appellants are the owners of the remaining two units on the right hand side of the building.
- Major concerns regarding approach/the whole building has structural defects caused by MICA blocks
- Both units to be demolished have received grants/remaining units are still awaiting grants.
- Concerned that works will negatively impact the structural integrity of the remaining half of the building/is already compromised.
- Two remaining units have sitting long term tenants/appellants cannot be held accountable as have made ABP and DCC aware of this potential issue.
- Request that permission be withheld until a detail structural survey from a qualified Structural Engineer is prepared.
- Should analyse all risks associated with the proposed development/guarantees should be required that the works will not negatively impact on the existing structure and fabric of the building.
- We would prefer to have the two remaining units included in the current Defective Blocks scheme or included in the revised Defective Blocks scheme and therefore demolish and rebuild the entire building.
- Will be beneficial for the safety of the tenants/would also be more economical to build.

- reference is made to negative publicity in relation to the demolition of half a semi-detached house in Buncrana (Exhibit 1)/ask that this unit not received such negative publicity.

Encl: Example of partial demolition in Buncrana; Submission acknowledgement;
Copy of Chief Executive Order

6.2. Applicant Response

6.2.1. None.

6.3. Planning Authority Response

6.3.1. A response from the Planning Authority was received on 15th April 2024. This sets out that all matters raised in the appeal have previously been addressed in the Planner's Report dated 27th February 2024.

6.4. Observations

6.4.1. None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues raised in this appeal to be considered are as follows:

- Principle of Development
- Structural Concerns/Structural Integrity
- Procedural Issues

7.2. Principle of Development

7.2.1. I would note the provisions of Section 6.1.20 of the Donegal Development Plan 2024-2030 which states that *inter alia* where applications for the demolition and rebuilding of a home are submitted by a homeowner (separate to the provisions of

S28 of the 2022 Act) these will be assessed as a replacement dwelling having regard to current policy. I would note that there is no specific policy set out in the Development Plan that relates specifically to replacement dwellings in an urban context (although there is such a policy when considered such replacement dwellings in a rural context). Notwithstanding, the principle of replacement dwelling is supported by the PA and no parties have raised any concerns in relation to the principle of the replacement dwellings (although the appellant's have raised concerns in relation to the manner of replacement as discussed below). However, noting the existing dwelling, and the residential context of the site, the replacement of the 2 no. units with units of a similar design and scale is acceptable in principle.

7.3. Structural Concerns/Structural Integrity

- 7.3.1. The main concern of the appellant is the potential impact on the structural integrity of the remaining 2 no. units (Nos 78 and 78a) that could result from the demolition and replacement of the neighbouring building. This is an understandable concern given that it is stated that this integrity is already compromised by defective MICA blocks. However, it is set out under s.34(2)(a) of the Planning and Development Act 2000 (as amended) that Planning Authorities (and the Board on appeal), when adjudicating on an application for planning permission, shall be restricted to considering the proper planning and sustainable development of the area. The matters raised in this third-party appeal are not matters that can be considered by the Board, in my view, and such matters are dealt with under other legislative codes, and the applicants will be required to adhere to same, and to carry out construction works with due care and attention. In a similar vein, the manner in which the demolition is taking place (i.e. demolition and rebuild of half of the structure rather than the entire structure) is not a matter for the Board to consider.

7.4. Procedural Issues

- 7.4.1. Having regard to the specific matters raised in the appeal, which I have outlined above, the Board may find that no material planning grounds have been raised, and therefore the appeal is without substance or foundation, and may wish to utilise its powers under s.138 of the Planning and Development Act 2000 (as amended) to dismiss the appeal.

8.0 Recommendation

- 8.1.1. Having regard to the foregoing assessment it is considered that the proposed development should be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

The proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would not detract from the visual or residential amenities of the area, nor would there be any significant adverse impacts on the character of the landscape. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. (a) Electrical, ducted and cabled services shall be undergrounds.
(b) Roof and ridge tiles shall be blue/black/grey and external walls white or as otherwise agreed by the Council in writing.

4. The new duplex units shall be connected to the public sewer prior to first occupation unless otherwise agreed in writing with the Planning Authority.

Reason: in the interests of orderly development and public health.

5. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

Ronan O'Connor
Senior Planning Inspector

12th July 2024

Appendix 1 - Form 1 EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319366-24			
Proposed Development Summary	Demolition of an existing duplex dwelling, reconstruction of a new duplex dwelling and all associated site works.			
Development Address	Numbers 77 & 77A Gleann Tain Manor, Carnamuggagh, Letterkenny, Co. Donegal.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No		
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?				
Yes				
No	X			
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]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	X	Class (10)(b) of Schedule 5 Part 2 Construction of more than 500 dwelling units; Urban development which would involve an area greater than 2 ha in	2 duplex units on a site of 0.028Ha. The applicable site area threshold is 2ha.	Proceed to Q.4

		the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Appendix 2 Form 2 EIA Preliminary Examination

An Bord Pleanála Case Reference	319366-24	
Proposed Development Summary	Demolition of an existing duplex dwelling, reconstruction of a new duplex dwelling and all associated site works.	
Development Address	Numbers 77 & 77A Gleann Tain Manor, Carnamuggagh, Letterkenny, Co. Donegal.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	<p>The proposed development is for 2 no. duplex units to replace the existing 2 no. duplex units. There are existing dwelling houses in proximity to the site. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants.</p>	<p>No</p> <p>No</p>
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?	<p>The development would generally be consistent with the scale of surrounding developments and would not be exceptional in scale in the context of the existing environment.</p>	<p>No</p>

Are there significant cumulative considerations having regard to other existing and/or permitted projects?	There would be no significant cumulative considerations with regards to existing and permitted projects/developments.	No
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>	<p>No</p> <p>No</p>
<p align="center">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____