



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319703-24

<b>Development</b>	Construction of an extension and all associated site works.
<b>Location</b>	Blairstown, Castlefin, Lifford, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2460279
<b>Applicant(s)</b>	Seamus & Mary McMenamin
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John & Bernadette McElhinney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17 <sup>th</sup> October 2024
<b>Inspector</b>	Matthew O'Connor

## **1.0 Site Location and Description**

- 1.1. The appeal site is 0.130ha and comprises a detached single storey cottage and a detached garage/shed on a modest plot in the townland of Blairstown, some 4.5km to the west of Castlefin, Co. Donegal. The appeal site is located on the eastern side of the L-2461-1 and there are residential properties bordering the subject lands to the immediate north and south-east with a backland-type dwelling situated to the north-east.
- 1.2. The topography of the site rises gently from the public road and the surrounding area is generally undulating. The roadside boundary of the appeal site comprises a low level wall and planted hedging. The northern and southern (side) boundaries are formed by low level walls. The eastern (rear) boundary is not defined as it is within a grassed field but the rear residential curtilage of the property is partly demarcated by a low level wall with an adjacent wire fence.
- 1.3. The surrounding locality is characterised by a dispersed pattern of one-off rural dwellings in individual and linear settings of varying styles and arrangements which address the public road along with agricultural lands and associated agricultural holdings. There are no Protected Structures or National Monuments within or adjoining the appeal site. The site is not located within a Flood Zone.

## **2.0 Proposed Development**

- 2.1. The proposed development seeks the construction of an extension; renovation works and minor elevational changes to an existing dwelling.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Grant permission for the development, subject to 5 no. conditions. The relevant conditions to this appeal are summarised as follows:

Condition No. 3 Surface and storm water discharges/connections.

Condition No. 5 The wastewater treatment system shall be operated and maintained in accordance with EPA Code of Practice (2021) for Wastewater Treatment and Disposal Systems Serving Single Houses.

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

#### **3.2.1. Planning Report**

- Planner's Report forms the basis for the decision to grant permission.
- The report provides a description of the site and associated Development Plan policy context.
- It outlines the primary elements of the subject proposal and considers the development to be acceptable and would not significantly impact on the amenities of the surrounding area.
- No issues arise in terms of wastewater treatment as there is no additional loading from the proposed extension and no evidence of malfunctioning of the existing septic tank.
- No issues raised with respect to AA or EIA.

#### **3.2.2. Other Technical Reports**

- MD Engineer – No objection, subject to conditions

### **3.3. Prescribed Bodies**

- Loughs Agency - No objection in principle

### **3.4. Third Party Observations**

3.4.1. The Planning Authority received 1 no. third party submission whose objection indicated the following:

- Concerns regarding extension design which is not in keeping with the surrounding area and negative impacts on residential amenity.
- Existing septic tank is not functioning properly and poses an environmental hazard.
- Storm water discharge is problematic.

## **4.0 Planning History**

4.1. None.

## 5.0. Policy Context

### 5.1. Development Plan

5.1.1 The application was assessed by Donegal County Council in accordance with the policies and objectives of the County Donegal Development Plan 2018-2024. The County Donegal Development Plan 2024-2030 was adopted by Donegal County Council on the 16th of May 2024 and came into effect on the 26th of June 2024 – with the exception of parts of the Plan affected by a Draft Ministerial Direction. I have assessed the proposal under the provisions of the operative Development Plan, namely the County Donegal Development Plan 2024-2030.

### 5.2. County Donegal Development Plan 2024-2030

5.2.1. The appeal site is located in a rural area of County Donegal which is not within a designated/zoned settlement. According to Map 6.3.1: 'Rural Area Types' of the Development Plan, the appeal site is located in an 'Structurally Weak Rural Area'.

5.2.2. Chapter 6: Housing contains policy on 'Refurbishment/Replacement/Extension of Existing Non-Vernacular Dwellings' which states:

*RH-P-6 To consider proposals for the refurbishment, or replacement, or extension of an existing non-vernacular habitable dwelling for use as either a permanent dwelling or as a holiday home, subject to compliance with the terms of Policy RH-P- 9 below. The design, size, height and finishes of the finished dwelling must be of a scale and form such that the development integrates effectively into the host landscape.*

With respect to Location, Siting and Design and Other Detailed Planning Considerations, the following policy is relevant:

*RH-P-9 (a) Proposals for individual dwellings (including refurbishment, replacement and/or extension projects) shall be sited and designed in a manner that is sensitive to the integrity and character of rural areas as identified in Map 11.1: 'Scenic Amenity' of this Plan, and that enables the development to be assimilated into the receiving landscape. Proposals shall be subject to the application of best practice in relation to the siting, location and design of rural housing as set out in Donegal County Council's 'Rural Housing*

*Location, Siting and Design Guide'. In applying these principles, the Council will be guided by the following considerations:-*

- i. A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in the rural area;*
- ii. A proposed dwelling shall not create or add to ribbon development (see definitions);*
- iii. A proposed dwelling shall not result in a development which by its positioning, siting or location would be detrimental to the amenity of the area or of other rural dwellers or would constitute haphazard development;*
- iv. A proposed dwelling will be unacceptable where it is prominent in the landscape;*
- v. A proposed new dwelling will be unacceptable where it fails to blend with the landform, existing trees or vegetation, buildings, slopes or other natural features which can help its integration. Proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. The extent of excavation that may be considered will depend upon the circumstances of the case, including the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings.*

*(b) Proposals for individual dwellings shall also be assessed against the following criteria:*

- i. the need to avoid any adverse impact on Natura 2000 sites or other designated habitats of conservation importance, prospects or views including views covered by Policy L-P-8;*
- ii. the need to avoid any negative impacts on protected areas defined by the River Basin District plan in place at the time;*
- iii. the site access/egress being configured in a manner that does not constitute a hazard to road users or significantly scar the landscape;*

- iv. *the safe and efficient disposal of effluent and surface waters in a manner that does not pose a risk to public health and accords with Environmental Protection Agency codes of practice;*
- v. *Compliance with the flood risk management policies of this Plan;*
- (c) *In the event of a grant of permission the Council will attach an Occupancy condition which may require the completion of a legal agreement under S47 of the Planning and Development Act 2000 (as amended).*

5.2.3. Chapter 8 of the Development Plan relates to 'Infrastructure' and contains the following relevant policy in respect of residential development:

- WW-P-6 Facilitate development in urban or rural settings for single dwellings or other developments to be maintained in single ownership with a projected PE <10 in unsewered areas proposing the provision of effluent treatment by means of an independent wastewater treatment system where such systems:*
- a. Demonstrate compliance with the EPA's Code of Practice for Domestic Waste water Treatment Systems (PE <10) (EPA 2021) or any subsequent or updated code of practice.*
  - b. Would not result in an over concentration or over proliferation of such systems in an area which cumulatively would be detrimental to public health or water quality.*
  - c. Otherwise comply with Policy WW-P-2*

### 5.3. Other Relevant Guidance

#### *EPA Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021*

This document sets out a methodology for site assessment and selection and maintenance of Domestic Waste Water Treatment Systems including guidance on appropriate percolation values for different types of systems, setback distance and sizing of percolation areas.

#### **5.4. Natural Heritage Designations**

5.4.1. The appeal site is not located within any designated Natura 2000 sites, with the nearest designated site being the River Finn Special Area of Conservation (Site Code: 002301) which is located approximately 1.15km to the southeast of the site.

#### **5.5. EIA Screening**

5.5.1. Having regard to the nature and scale of the development, which is for the extension of a residential property, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required. See Appendix 1.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

6.1.1. The Third Party appeal was lodged on behalf of individuals who reside in the neighbouring dwelling to the south of the application site. The grounds of appeal are summarised as follows:

- The existing septic tank is half on the appellant's property and the percolation area is fully in the appellant's property and is not working.
- Condition 5 regarding wastewater does not take account of the current wastewater situation.
- Requests that DWWTS be in accordance with the EPA (2021) guidelines and contained on property of applicants.
- Existing services are not working with storm water causing a road hazard.
- Extension design not in keeping with neighbouring buildings and will impinge on privacy, light, view and the elderly. The two-storey extension is out of character with the area.
- There are plans for a new road proximate to the appeal site which has not been considered in the assessment.

#### **6.2. Applicant Response**

6.2.1. A response has been received on behalf of the applicants in relation to the Third Party appeal. The items raised are summarised as follows:

- The septic tank is located on the appeal site and there is no evidence of it on the appellant's property.
- Previous permissions on the neighbouring site do not demonstrate a septic tank or percolation area on the neighbouring site.
- The subject house and facilities have been in place before that of the appellants and existing services would have been considered when developing the adjoining site.
- The existing wastewater treatment system will be upgraded under Condition No. 5 of the decision to grant and will be located entirely on applicants' site.
- There is no awareness of any surface water run-off affecting the local road. There is no ponding, blockages or overflow at existing gullies which demonstrates satisfactory working condition.
- The gravel entrance/yard allows natural percolation to ground. The roadside gully collects surface water and there is no evidence of issues.
- The proposed renovation/extension has been designed with specific respect to the dwelling and its character.
- The extension will not impinge on the appellants' privacy as their dwelling is at a higher land level and set back to the rear building line of proposed works.
- It is assumed that the road project referred to is the "Ten-T" which is not in the vicinity of the applicant site.

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

6.3.1. A response has been received from the Planning Authority which essentially confirms its decision as set out in the Planner's Report.

## **7.0 Assessment**

7.1. Having examined the application details and other associated documentation on file, the Third Party appeal, the appellants' response, having conducted an inspection of the site, and having reviewed relevant local policies and guidance; I am satisfied that the main issues to be considered are those raised by the Third Party in their grounds of appeal. I am satisfied that no other substantive issues arise. This appeal can be addressed under the following headings:



- Wastewater Treatment & Disposal
- Siting and Design
- Impact on Residential Amenity
- Surface Water Drainage
- Consideration of New Road Proposal
- Appropriate Assessment (Screening)

## **7.2. Wastewater Treatment & Disposal**

7.2.1. The primary grounds of appeal relates to the appellants claim that the existing septic tank serving the appeal site is part located in the curtilage of their property and that the percolation area is fully within their property. No details or evidence confirming this arrangement have been submitted apart from an annotation on a Site Layout Plan copy. It is also contended by the appellants that the existing wastewater system is not working and that the proposals have not considered the foul arrangement. The applicants' response states that the existing septic tank is located fully on the appeal site and that there is no evidence of a septic tank on the appellants' property. The appeal response also notes that the cottage and facilities (i.e. foul/wastewater) were in place before the appellants' dwelling was built and that regard should have been had when that plot was developed. The applicants' response also indicates that the wastewater treatment system on the appeal site will be upgraded as required under Condition No. 5 of the decision to grant.

7.2.2. In considering the subject development, I note that no supporting documentary evidence or documentation has been submitted to verify or demonstrate the capacity and/or adequacy of the existing wastewater treatment system to cater to the proposed development. From my review of the appeal file, the existing cottage is indicated as having 3 no. bedrooms served by a 'wet room' and the layout of the proposed development demonstrates no change in occupancy with 3 no. bedrooms served by an en-suite, family bathroom and a W/C. I further note that the Planning Authority raised no issue with respect to wastewater treatment as it was considered that there would be no additional loading from the proposal and that there was no evidence of malfunctioning of the existing septic tank. However, in light of this assessment, it is unclear to me as to why the Planning Authority have attached Condition No. 5

(requiring the wastewater treatment system to be operated and maintained in accordance with EPA Code of Practice (2021) for Wastewater Treatment and Disposal Systems Serving Single Houses).

7.2.3. On the day of my site inspection, I observed the existing septic tank adjacent to the garage/shed building and along the boundary (southern) wall with the neighbouring residence. I noted a tank situated approximately 3 metres from the neighbouring boundary covered with 5 no. surface level concrete slabs. These slabs were placed side-by-side however I could partially see beneath them into the tank below. Adjacent to the tank and abutting the boundary wall of the neighbouring property, I observed 3 no. separate concrete lids/slabs. I was unable to verify the precise relationship of these slabs to the tank, but I am satisfied that they are associated due to their proximity. From the southern (side) boundary wall, I conducted a visual observation of the grassed front garden of the appellants' property. I did not observe any evidence of a septic tank or any such structure from the appeal site part located on the neighbouring property or apparent evidence of a percolation area. To this end, I noted the neighbouring garden to be in generally good condition with no apparent evidence of standing water or surface features associated with poor percolation.

7.2.4. Based on my site observations of the existing septic tank and lack of an identifiable percolation area in addition to the absence of supporting evidence or documentation submitted with the appeal file on wastewater treatment, I have significant concerns regarding the adequacy of the existing wastewater treatment system to effectively treat effluent arising from the proposed development. Whilst I note the commentary from both the Planning Authority and the appellants regarding no increased occupants or associated loading from the proposal, the applicants have failed to demonstrate the operational efficiency of the existing wastewater treatment system. In addition, given the additional number of bathrooms proposed, I consider that there will be inevitable increased loading on the existing system which has not been factored in irrespective of occupant numbers. This is particularly relevant given the site conditions which I have reviewed using data available from the Geological Survey of Ireland (GSI). The appeal site is situated within a Poor Aquifer (PI) with 'bedrock which is Generally Unproductive except for Local Zones' bedrock at the surface and has a 'High Vulnerability' rating in relation to groundwater.

7.2.5. I am also of the view that it is not appropriate for this matter to be addressed by way of a post consent condition as it must be demonstrated that the subject site can accommodate appropriate wastewater treatment in accordance with best practice. I consider that the proposed development would be at a variance with the County Donegal Development Plan 2024-2030, namely Policy RH-P-9(b)(iv) which require that proposals for refurbishment/extension projects provide safe and efficient disposal of effluent and surface waters in a manner that does not pose a risk to public health and accords with Environmental Protection Agency codes of practice; and, Policy WW-P-6 which requires that independent wastewater treatment systems in rural settings demonstrate compliance with the EPA's Code of Practice for Domestic Waste water Treatment Systems (PE <10) (EPA 2021). It is my view that the proposed development would be prejudicial to public health and contrary to the proper planning and sustainable development of the area. Permission should be refused as it is not considered the applicants have indicated that the proposed development can be adequately served.

### **7.3. Siting and Design**

7.3.1. The appellants contend that the design of the proposed development is not in keeping with buildings either side of the subject property and is out of character with the surrounding area. The response of the applicants claim that the proposal has been designed with specific respect to the dwelling and its character.

7.3.2. Policy RH-P-6 of the Development Plan relates specifically to the 'Refurbishment/Replacement/Extension of Existing Non-Vernacular Dwellings'. This policy states that proposals for the refurbishment or extension of existing non-vernacular habitable dwelling for use as a permanent dwelling will be considered subject to the terms of Policy RH-P- 9 and that the design, size, height and finishes must be of a scale and form such that the development integrates effectively into the host landscape.

7.3.3. Having regard to the above, Policy RH-P-9 (Location, Siting and Design and Other Detailed Planning Considerations) is therefore relevant. This policy is primarily guided towards individual dwellings but encompasses refurbishment, replacement and/or extension projects. Proposals shall be designed in a manner that is sensitive to the integrity and character of rural areas and that the development assimilates into the receiving landscape through best practice regarding siting, location and design of rural

housing. The key criterion seeks to avoid the creation/expansion of a suburban pattern of development; shall not be detrimental to the amenity of the area or of other rural dwellers or constitute haphazard development; and shall not be prominent in the landscape. Additionally, parameters for assessment include avoiding adverse impact on Natura 2000 sites or designated habitats/protected areas and views/prospects; site access/egress; the safe and efficient disposal of effluent and surface waters; and, compliance with flood risk management.

- 7.3.4. In considering the siting and design, I note the proposal seeks to extend the existing cottage with flat-roofed rear extension (73sq.m). The part single, part two-storey extension is situated entirely to the rear area of the existing dwelling with a floor area 80.05sq.m which will result in an overall total floor area of 153.05sq.m. The proposed two-storey extension will have a pitched roof with a height of 6.665 metres and will be set back from the existing ridge of the cottage. The development will result in modification works with the existing 3-bedroom cottage being revised to a kitchen/dining area and a living room. The proposed rear extension will contain a W/C, utility and 2 no. bedrooms with a bathroom at ground floor level. The first floor level will contain an en-suite bedroom and plant room.
- 7.3.5. While I note the floor area of the proposed extension, at 80.05sq.m, represents a 110% increase of the floor area of the existing cottage, I am cognisant that the existing cottage is quite modest in size and there are no prescribed floor area limitations on domestic extensions in the Development Plan. The proposal will refurbish the existing cottage with the original style, height and form being unchanged apart from the provision of 2 no. rooflights on the front roofslope. The single storey modifications will enable the proposed two storey extension element to be read in association with the cottage and the new works will be contained entirely to the rear.
- 7.3.6. Accordingly, it is my opinion that the proposed extension would secure the viability of the dwelling into the future in a manner that is conducive to modern family living. I further consider that the principle of the residential extension to be acceptable and broadly consistent with the parameters pertained in the County Donegal Development Plan 2024-2030 insofar as it relates to residential-type development. Notwithstanding, I have previously outlined my concerns regarding wastewater treatment and disposal and that permission should be refused on that consideration.

#### **7.4. Impact on Residential and Visual Amenity**

- 7.4.1. The appellants consider that the proposed development will impinge on privacy, light and views in relation to their property and that of an elderly neighbour. The Third Party appeal does not expand on how the proposed two-storey extension will cause amenity impacts other than referencing a first floor bathroom window on the northern elevation.
- 7.4.2. Having regard to the design and scale of the proposed development and its siting relative to the neighbouring property of the appellants, I am satisfied that there is a considerable set-back from the corner of the two-storey extension and the appellants' dwelling to the south-east (approximately 26 metres) so there will no direct overlooking from first floor level windows. I also acknowledge that the appellants' property is set back from the rear building line of the proposed extended area and on a more elevated position to that of the proposed development. With regard to the cottage to the north, the only window on the north facing (side) elevation at first floor level is to serve an en-suite bathroom and is to be fitted with obscured/frosted glazing. I am satisfied that the proposed development would not result in any loss of light, privacy, views or injury to the residential amenity of the neighbouring properties.
- 7.4.3. With respect to visual amenity, I note that the appeal site is situated in an 'Area of Moderate Scenic Amenity' as detailed in Map 11.1: 'Scenic Amenity' of the Development Plan. I am satisfied that the proposed residential extension is appropriately designed and would not detract from the character or quality of the receiving landscape. Moreover, I note that there are no protected views, as identified in the Development Plan, in the vicinity of the appeal site which would be disrupted from the subject development.

#### **7.5. Surface Water Drainage**

- 7.5.1. The appellants are concerned that existing services on the appeal site are not working and that storm water from the site is outflowing to the public road and creating an hazard to road users. The applicants claim to be unaware of any surface water run-off affecting the local road network and state that there is no ponding/blockages/overflow at existing roadside gully. It is further claimed that the gravel entrance and yard area allow for natural percolation to ground with no known issues.
- 7.5.2. I note that surface water treatment is identified on the Site Layout Plan as discharging to the 'existing storm drainage network' however, no precise details of this surface

water drainage have been provided. During my site inspection, I did not identify any features to suggest any apparent surface drainage issues on the site or evidence to suspect run-off onto the public road network.

7.5.3. Notwithstanding the lack of information regarding surface water drainage, I am satisfied that this is not a fundamental issue which merits refusal in its own instance as surface water management measures, such as soakaways, could likely be implemented on-site to ensure that all surface water generated within the site be collected and disposed of within the site and that no surface water discharges onto the public road or adjoining properties. However, should the Board decide to permit the subject development, it can reasonably ensure that the surface water is treated within the site.

#### **7.6. Consideration of New Road Proposal**

7.6.1. The appellants claim that proposals for a new road in proximity to the appeal site has not been considered in the assessment of the application. I note that no specific details regarding a new road have been provided in the appeal and the response of the appellants makes the assumption that the road project referred is the "Ten-T". From my review of the appeal file, the Planning Authority made no reference to any road project in its assessment, and I am not aware of any roads/transportation projects in the vicinity of the appeal site which are directly applicable to the appeal site or which may be impacted as a result of the proposed domestic extension.

#### **8.0 Appropriate Assessment (Screening)**

8.1. Having regard to the scale and nature of the proposed works to an existing residential property, it is concluded that no Appropriate Assessment issues arise as the subject development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **9.0 Recommendation**

9.1. I recommend that permission be refused.

## 10.0 Reasons and Considerations

Having regard to the lack of information submitted, the Board is not satisfied that the existing effluent treatment system on the subject site has the capacity to effectively treat foul effluent arising from the additional loading from the proposed development. It would not be appropriate for this matter to be addressed by condition as the applicants have failed to adequately demonstrate that the subject site can accommodate appropriate wastewater treatment in accordance with the EPA's Code of Practice for Domestic Wastewater Treatment Systems (PE <10) (EPA 2021). It is considered that the proposed development would be at a variance with Policy RH-P-9(b)(iv) and Policy WW-P-6 of the County Donegal Development Plan 2024-2030 and would therefore be prejudicial to public health and 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.

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Matthew O Connor  
Planning Inspector

31<sup>st</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-319703-24		
<b>Proposed Development Summary</b>	Construction of an extension and all associated site works.		
<b>Development Address</b>	Blairstown, Castlefin, Lifford, Co. Donegal		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	<b>X</b>
		<b>No</b>	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>			EIA Mandatory EIAR required
<b>No</b>	<b>X</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>
<b>Conclusion</b>			
<b>No</b>	<b>X</b>	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4

<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>		Preliminary Examination required
<b>Yes</b>		Screening Determination required

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