



An
Bord
Pleanála

Inspector's Report

ABP-321886-25

Development	Reconstruction of the existing ground floor extension to the rear of house, construction of first floor extension as bedrooms and all associated site development works.
Location	Ballymagowan, Dunkineely, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	24/62069
Applicant(s)	J & E Bishop
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	S.L. Lingard
Observer(s)	None
Date of Site Inspection	11 th April 2025
Inspector	P Maguire

1.0 Introduction

- 1.1. An appeal has been made to An Bord Pleanála ('the Board') by Mr & Mrs S.L. Lingard under the provisions of Section 37 of the Planning and Development Act 2000, as amended ('the Act'), following a grant of permission under Section 34 of the Act.
- 1.2. This Inspector's Report (IR) and recommendation is made pursuant to Section 146(2) of the Act. The Board are required to consider both before determining the matter.

2.0 Site Location and Description

- 2.1. Situated along and to the northern side of the N56 between Killybegs and Donegal town, the appeal site is located in the village of Dunkineely, in the southwest of the county. The posted speed limit through the village is 50kph and vehicular access to the site is via a laneway to the side. It also serves other houses to the east and west.
- 2.2. The appeal site has a stated area of 0.088ha and is roughly rectangular shaped. It consists of an end-terrace two-storey house with long linear garden to the rear, which rises moderately. This terrace, like the adjacent terrace of houses to the east has no immediate boundary treatment to the rear and therefore the houses are somewhat removed from the curtilage of the gardens. An area of tarmac hardstanding enables parking to the rear of the houses and I note that a car was parked to the rear of the adjoining house at the time of inspection. The appeal house has a single-storey mono-pitched roof projection to the rear. There is a similar projection to the rear of the mid-terrace house, although it forms a pitched roof with the opposite end-terrace house. A small lean-to structure is located between it and the rear projection of appeal site.

3.0 Proposed Development

- 3.1. Permission is sought for a rear extension at ground and first floor levels.
- 3.2. The proposed development is described in the statutory notices as:
 - (1) *Reconstruction of the existing ground floor extension to the rear of dwelling house,*
 - (2) *Construction of first floor extension as bedrooms, and*
 - (3) *All associated site development works.*

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. Permission was granted on 7th February 2025, subject to 7 no. conditions.
- 4.1.2. The conditions are standard to the nature of the proposal, but the following is of note:
Condition 5 – vehicular and pedestrian access to adjoining properties to the west of the subject site shall be kept open at all times during construction of the development herein permitted.

4.2. Planning Authority Reports

- 4.2.1. The Planner's Report (31/01/25) can be summarised as follows:

Principle of Development

- Considers the principle of the proposal to extend an end-terrace house in the village of Dunkineely acceptable subject to other criteria, guidelines and standards.

Siting and Design

- Having regard to the urban context, the limited opportunities available to increase living space and the scale of the extension, it considers that the development can be accommodated without undue loss of existing amenities.

Residential Amenity

- Considers no issues arise in relation to loss of privacy, overlooking or residential amenity given the separation distances between the site and neighbouring houses.

Access

- Notes access to adjoining houses across the rear of the site and states that a condition shall be attached to any grant of permission to ensure this remains.

Public Health

- Notes existing connections for surface and wastewater, and water supply.

Development Contribution

- No additional charges to be imposed.

AA and EIA

- Considers the proposal is unlikely to have any significant effect, individually or in combination with other plans or projects on a Natura 2000 site.
- Considers there is no real likelihood of significant effects on the environment and screens out the need for EIA at preliminary examination stage.

Recommendation

- Having regard to the location within the village of Dunkineely, removed from any sensitive designations, and to the nature and scale of the development, it considers that the proposal would not injure the amenities of the area, would not be prejudicial to public health and would not endanger public safety by reason of a traffic hazard.

4.2.2. Other Technical Reports

- None, although I note that the Area Roads Engineer was consulted.

4.3. **Prescribed Bodies**

- None, although I note that Uisce Éireann was consulted.

4.4. **Third Party Observations**

4.4.1. Third-party observation received from:

- Mr & Mrs S. Lingard.

4.4.2. Issues raised are similar to the grounds of appeal (see section 7.1 below). The issues were summarised in the Planner's Report as follows:

- Loss of daylight
- Loss of value and damage to property
- Visual and residential amenities – noise and disturbance, design not in keeping with the area
- Access issues – builders blocking shared access to the rear

4.4.3. I note that the Planner's Report outlines a response to each of the issues raised.

5.0 Planning History

5.1. None relevant.

6.0 Policy Context

6.1. Local Planning Policy

County Donegal Development Plan 2024-2030

- 6.1.1. The current Development Plan came into effect on 26th June 2024. The Plan was subject to a draft Ministerial Direction in July 2024 and is pending a final decision by the Minister following public consultation and OPR recommendations (Sept. 2024). The planning authority decision was made under the provisions of this current Plan.
- 6.1.2. I also note that proposed Variation No. 1 of the Plan was at pre-draft public consultation stage in February 2025, the provisions of which do not affect the site.
- 6.1.3. The site is located within the rural settlement boundary of Dunkineely (Map 21.5) and is subject to the provisions of Chapter 21 relating to Settlement Frameworks. In this regard, whilst I note that the frameworks identify settlement envelopes and certain zoning objectives, they also consist of lands that, although not specified as being for a particular use, can be used for a variety of purposes on a case-by-case basis.
- 6.1.4. This applies to the appeal site which is not subject to any of the land use zoning objectives (Table 21.2). Nor is it subject to any of the land use zoning policies listed.
- 6.1.5. Other policies and objectives are set out in chapters 5 (Towns and Villages), 6 (Housing), 11 (Natural, Built and Arch. Heritage) and 16 (Technical Standards).
- 6.1.6. The following sections are relevant to the proposed development:
- 5.2 – Prioritisation of Town and Village Cores
 - 6.2 – Urban Housing
 - 11.2 – Landscape
- 6.1.7. Summary of policies and objectives relevant to the appeal site:

TV-O-1	Seeks to identify appropriate regeneration and renewal initiatives, primarily through enhancement schemes to strengthen communities in the County's towns and villages including Dunkineely.
TV-O-2	Seeks to ensure quality design proposals for new development within towns and villages in order to contribute to positive place-making.
TV-P-3	Sets out criteria (a) to (h) relating to development proposals within town and village centres.
TV-P-5	Seeks to ensure that proposals make efficient use of land and do not otherwise hinder the future development potential of urban backlands.
UB-O-1	Seeks to identify appropriate regeneration and renewal initiatives, primarily through enhancement schemes to strengthen communities in specific Settlement Framework rural towns including Dunkineely.
RH-P-9(a)	Requires proposals for individual dwellings, including extensions, to 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. It notes that 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 the rural design guide.
L-P-2	Seeks to protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered.
TS-P-1	Requires compliance with all the technical standards set out in Chapter 16 of the Plan including those relating to transportation and parking.

6.2. Natural Heritage Designations

6.2.1. Closest designated sites:

- St. John's Point SAC and pNHA (000191) – c. 3.8km south, southwest
- Donegal Bay SPA (004151) – c. 5.1km southeast

6.3. EIA Screening

- 6.3.1. The proposed development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulation 2001, as amended, and therefore no preliminary examination is required. See Appendix 1.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. A third-party appeal has been lodged by Mr & Mrs S.L. Lingard. The grounds of appeal reflect the observations made to the planning authority and are summarised as follows:

Loss of Natural Light

- Currently overshadowed by wall facing the rear door/main entrance and therefore impossible for there not to be a loss of light.
- A second storey will completely block out light to the kitchen door and rear bedroom window, interfering with “Right to Light” in both areas.
- Should a second storey be built, natural light will almost disappear.

Loss of Value and Damage to Property

- There is a boiler house adjoining both properties and therefore should any demolition take place, this area would be affected/damaged.
- The properties are within an area of ‘High Scenic Amenity’ and the proposal will result in a loss of views from this point which will impact on the property value.

Visual and Residential Amenities

- The appellants would be residing on a building site and therefore it is impossible not to be disturbed and unaffected by noise.

Access

- Notes the condition requiring access to be kept open at all times but states that this area, ‘the lane’, is already being blocked by cars and vans etc. and raises concerns regarding the enforcement of this condition.

7.2. Planning Authority Response

7.2.1. The planning authority's response can be summarised as follows:

- Application has been thoroughly assessed and a site inspection undertaken.
- Considers that the rear extension represents sustainable planning and permits contemporary use of an older building.
- States that there are no defined amenity views in this area.
- Submits that issues around noise and disturbance have been dealt with by condition i.e., standard working hours.
- Notes the condition to prevent blocking of rear access.
- Suggests that the proposal is slightly above the scale permitted by exempted development and states that it permits the construction of an additional bedroom to a permanent family home.
- Accepts that there will be disturbance during construction but notes the village centre location with passing traffic and adjacent businesses.
- Considers the proposal a sustainable form of development that constitutes compact growth and assists with the viability of local businesses and services.

8.0 Planning Assessment

8.1. Preliminary Points

8.1.1. Having examined the application details and all other documentation on the appeal file, including the appeal submissions and observations, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal.

8.1.2. The issues can be addressed under the following headings:

- Residential Amenity
- Visual Amenity
- Property Value

8.2. Residential Amenity

- 8.2.1. The appeal centres on the impact of the proposed extension on natural light entering the appellants home, stated as their 'right to light'. They also raise concerns regarding noise, disturbance and impacts on access to the rear during the construction phase.
- 8.2.2. The proposed extension is located entirely to the rear of the house. As noted, the existing rear projection has a mono-pitched roof structure. It is c. 3.15m above ground level at its highest point, falling to c. 2.40m above ground level. The rear wall of the projection is marginally recessed to one side. It is proposed to demolish this part of the wall and bring it forward flush with the remaining part. It is then proposed to build upon this marginally extended footprint to provide two additional bedrooms at first floor level. The extension will have a 7m high pitched roof over a 5.56m by 5.425m footprint.
- 8.2.3. The ground floor extension has a stated area of 2.3sq.m, with 25sq.m proposed above.
- 8.2.4. In terms of 'right to light', this is a matter for the Courts and I do not consider that the Board is in a position to draw any conclusions on this issue. I do however consider that overshadowing can be addressed as an analogous residential amenity impact.

Overshadowing

- 8.2.5. There is a paucity of information set out in the Development Plan in relation to extensions and overshadowing. It is generally accepted however that significant loss of daylight to the window of the closest habitable room in a neighbouring property can be prevented by not locating an extension within the 45° angle of the centre point at 2m above ground level of the nearest main window or glazed door to a habitable room, measured on both plan and elevation. In the case of the proposed pitched roof, then the top of the extension is to be taken as the height of its roof halfway along the slope.
- 8.2.6. The appellant's house is not illustrated on the submitted drawings, which is not ideal, however it is evident from my inspection that their ground floor kitchen window will be unaffected by the proposal in terms of overshadowing. Whilst I accept that there will be some loss of light into the upper floor bedroom window given the depth of the extension, and there will also be an impact on the ground floor kitchen door, which includes a pane of obscure glazing, both are north-facing and generally within shade¹.

¹ See photograph in para. 9.5 of the Planner's Report.

8.2.7. Indeed, during my site visit, which was during mid-afternoon, it was evident that the shadow being cast was from west to east, and therefore any impacts as a result of the proposed development will most likely be restricted to the early-mid morning period.

8.2.8. In this regard, I do not consider there to be a significant loss of daylight, however I do not agree with the planning authority that the proposal is 'slightly above the scale' permitted by exemption. Class 1 of Part 1 of Schedule 2 of the Planning Regulations limits upper floor extensions of terraced houses to 12sq.m, whereas 25sq.m is proposed in this case. The Board may wish to reduce the scale of the upper floor extension by condition but I do not consider this necessary given the limited impact.

Noise and Disturbance

8.2.9. The appellants have also raised concerns regarding noise and general disturbance, suggesting that they will be living on a building site. These concerns are however restricted to the construction phase of the extension, which I anticipate will be of limited duration. The planning authority submits that these impacts can be addressed through a condition governing the hours of construction and I agree. I therefore recommend that the Board attach such a condition in the event of a grant of planning permission.

Access

8.2.10. Whilst the appellant notes the requirements of Condition 5 regarding the preservation of access during the construction phase, they state that 'the lane' is already being blocked by vehicles, thus raising concerns regarding the enforcement of this condition.

8.2.11. The enforcement of planning control falls outside the remit of the Board. This is for the planning authority to deal with as they see fit. I do not, therefore, propose to deal with this matter as detailed in the appeal. Condition 5, as cited above in section 4.1.2, is, in my opinion however, reasonable in the context of the proposed development and I therefore recommend that the Board attach such a condition in the event of a grant.

8.2.12. Moreover, any legal dispute arising over existing rights is a civil matter to be resolved between the parties, having regard to the provisions of Section 34(13) of the Act.

Conclusion on Residential Amenity

8.2.13. On balance, I do not consider that the proposal will adversely impact on residential amenity by reason of overshadowing, noise or general disturbance, including access. In this regard, I consider that the substantive grounds of appeal should be dismissed.

8.3. Visual Amenity

- 8.3.1. Noting the appeal site's location within an area of 'High Scenic Amenity', the appellant suggests that the proposal will result in a loss of views from this point. This, they state, will impact on the property value. I will address the issue of property value separately.
- 8.3.2. As noted, the proposed extension is located entirely to the rear of the house with no intervention in the front elevation save for a new rooflight, which I consider acceptable. The ridgeline is set below the main ridgeline of the terrace and therefore subservient.
- 8.3.3. The planning authority have stated that there are no defined amenity views in this area and having reviewed the Development Plan, I agree. Nor is the site within an architectural conservation area (ACA) or in proximity to any structures listed in the RPS. The appeal site is located towards the village centre, and views from the rear of the house are restricted to linear garden areas, some trees, fencing and hedgerow.
- 8.3.4. Having regard to the nature and scale of the proposal and the receiving context, I am satisfied that it is consistent with policy L-P-2 which requires development to integrate and reflect the character and amenity of the landscape in 'High Scenic Amenity' areas.
- 8.3.5. I do, however, recommend that the Board condition the external finishes in the event of a grant of permission, and in the absence of any specified finishes on the drawings.

Conclusion on Visual Amenity

- 8.3.6. On balance, I do not consider that the proposal will adversely impact on any visual amenity and in this regard, I consider that the appellants grounds should be dismissed.

8.4. Property Value

- 8.4.1. I note the concerns raised in the grounds of appeal in respect of the devaluation of the appellants property. However, having regard to the assessment and conclusions set out above, I am satisfied that the proposal would not seriously injure the amenities of the area to an extent that it would adversely affect the value of property in the area.
- 8.4.2. Whilst I also note the appellants concerns in relation to potential damage to their boiler house during the construction phase, the drawings show that no demolition of the adjoining wall is proposed, other than immediately adjacent to the rear wall. Moreover, as with access, any legal dispute arising over existing property rights is a civil matter.

9.0 AA Screening

Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered case ABP-321886-25 in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended.

The proposed development is located within a mixed commercial and residential area near the centre of Dunkineely village and comprises a rear extension at ground and first floor level. The closest European site, part of the Natura 2000 Network, is the St. John's Point SAC, located c. 3.8km south, southwest of the proposed development.

Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- The small scale and nature of the development
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

I recommend that permission be **granted** for the reasons and considerations below.

11.0 Reasons and Considerations

Having regard to the provisions of County Donegal Development Plan 2024-2030, the location of the proposed development within the settlement boundary of Dunkineely and near the village centre, the small scale nature of the proposal in the context of the appeal site and surrounding area, and the prevailing pattern and character of development in this area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not endanger public safety by reason of a traffic hazard or impact on public health. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 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 interests of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed extension shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The existing dwelling and the proposed extension shall be jointly occupied as a single residential unit and the extension shall not be used, sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 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.

5. Vehicular and pedestrian access to adjoining properties to the west of the subject site shall be kept open at all times during construction of the development hereby permitted.

Reason: To preserve residential amenities and in the interests of orderly development and public safety.

6. 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.

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.

P Maguire

Inspectorate

16th April 2025

Appendix 1 (EIA Screening)

Form 1 – EIA Pre-Screening

Case Reference	ABP-321886-25		
Proposed Development Summary	Reconstruction of the existing ground floor extension to the rear of house, construction of first floor extension as bedrooms and all associated site development works.		
Development Address	Ballymagowan, Dunkineely, 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)?			
Yes			Proceed to Q3.
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Prelim. exam. required (Form 2)
5. Has Schedule 7A information been submitted?			
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: _____

Date: 16th April 2025