



An  
Coimisiún  
Pleanála

## Inspector's Report PL-500395-DL-25

### Development

Balla Tosaigh a bhaint, Páirceáil lasmuigh den tsráid, Colbhaí a ísliú le haighadh rochtana agus cead chun na hoibreacha láithreáin a bhaineann leo a chur i gcríoch.

### Location

25 ASCAILL RADHAIRC AN CHUAIN,  
NA CEALLA BEAGA, CO. DHÚN NA  
NGALL

### Planning Authority

Donegal County Council

### Planning Authority Reg. Ref.

2561488

### Applicant(s)

Diane Harvey

### Type of Application

Retention

### Planning Authority Decision

Grant Retention with Conditions

### Type of Appeal

Third Party Normal Planning Appeal

### Appellant(s)

Mary & Charles Boyle

### Observer(s)

None

**Date of Site Inspection**

22<sup>nd</sup> January 2026

**Inspector**

Ronan Murphy

## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated area of 0.012ha and is located within a residential area c.160m to the northwest of Killybegs Town Centre in Co. Donegal.
- 1.2. The site comprises of a mid-terrace 2 storey dwelling house. The element for which retention planning permission is requested comprises of the removal of the front garden and walls and their replacement with car parking. Works to the front of the property includes the replacement of the public footpath to the front of the property including dipped kerbs. I note that works to the dwelling are currently being undertaken but do not form part of the application currently being considered.
- 1.3. The surrounding area is residential in character with terraces of two storey houses to the north-western side of the road and single storey dwellings to the south-eastern side of the road.

## **2.0 Proposed Development**

- 2.1. The application seeks retention planning permission for works to provide for car parking to the front of the dwelling.
- 2.2. The area to the front of the dwelling for which retention parking is proposed comprises of 324m<sup>2</sup>
- 2.3. The application includes the retention of two dropped kerbs to the north-west and south-east of the site.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1 By order dated 7/11/25 the Planning Authority decided to grant retention permission subject to 6 conditions. The conditions are standard in nature.

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

- 3.2.1 Planning Reports

3.2.1.1 There are two planning reports on file. The first planning report dated 15/10/25 outlined no objections in principle to the development, however concerns were raised with respect to width of the proposed parking area from the front wall of the house to the boundary with the public footpath, the method of surface water collection and discharge from the parking area and how the public footpath would be reinstated including finishes and kerbing to the road. Further Information was requested on this basis.

3.2.1. Other Technical Reports

**Area Roads Engineer:** Report dated 9/10/25 requesting Further Information.

3.3. **Prescribed Bodies**

None on file.

3.4 **Second planning report**

3.4.1 A second planning report dated 30/10/25 outlines that a Further Information response was received on 21/10/25. I make the Coimisiún aware that unsolicited Further Information comprising of an e-mail dated 15/10/25 was received by the Planning Authority. The area planners report states that based on a consideration of the information received the proposed development 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. As a result, the Planning Authority issued a Notification of Decision to Grant Planning Permission.

**Other Technical Reports- Post Further Information**

3.4.2 None on file

3.5 **Third Party Observations**

3.5.1 None on file

## 4 Planning History

4.1 There is no planning history pertaining to the appeal site.

Nearby sites

**Reg. Ref. 2461926:** Application for the removal of existing fence and hedge and the construction of a new masonry boundary wall, incorporating a single parking bay on the boundary of the site. Permission granted, subject to the conditions.

### Policy Context

#### 4.4 Development Plan

4.4.1 The *Donegal County Development Plan 2024-2030* is the operative plan for the area. The relevant development controls and technical guidelines are set out in Chapter 16 of the County Donegal Development Plan 2024-2030, 'Technical Standards'

4.4.2 In addition to this, the subject site also falls within an area of 'High Scenic Amenity.' Areas of High Scenic Amenity are defined as landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.

4.4.3 The site is located within an area designated as Established Development in the Seven Strategic Towns (Killybegs) Local Area Plan 2018- 2024\* which has the objective '*To conserve and enhance the quality and character of the area, to protect residential amenity and to allow for development appropriate to the sustainable growth of the settlement.*'

4.4.4 \*The Donegal County Council website states that the Seven Strategic Towns Local Area Plan 2018- 2024 for a further period of 2 years after the elapse of the period of five years from the making of the current Plan.

## **4.5 Natural Heritage Designations**

- 4.5.1 The appeal site is not located on or within any designated Natura 2000 site(s) or Natural Heritage Area(s). The Saint Johns Point SAC (Site Code 000191) is located c. 4.9km to the south of the site. The Slieve League SAC (Site Code 000189) is located c. 11.5km to the west, the Slieve Tooley/Tormore Island/Loughros Beg Bay SAC (Site Code: 000190) is located c.12.6km to the north of the site and the Lough Nillan Bog (Carrickatlieve) SAC (Site Code: 000165) is located c.12.1km to the north-east of the site.
- 4.5.2 The West Donegal Coast SPA (Site Code: 004150) is located c. 8.1km to the west of the site, the Lough Nillan Bog SPA (Site Code: 004110) is located c. 12.1km to the north-east of the site.
- 4.5.3 In addition to this, the Saint John's Point pNHA (Site Code: 000191) is located c. 4.9km to the south of the site, the Coguish Bog pNHA (Site Code: 001938) is located c. 8.8km to the northwest of the site and the Slieve League pNHA (Site Code: 000189) is located c. 11.6km to the west of the site.
- 4.5.4 A screening exercise for Appropriate Assessment will be undertaken in Section 7 below.

## **4.6 EIA Screening**

- 4.6.1 See completed Form 2 attached by way of appendix to this report. 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.

## **4.7 Water Framework Directive**

- 4.7.1 The purpose of the EU Water Framework Directive is an initiative aimed at improving water quality throughout the European Union. The Directive was adopted in 2000 and requires governments to take a new approach to managing all their waters; rivers, canals, lakes, reservoirs, groundwater, protected areas (including wetlands and other water dependent ecosystems), estuaries (transitional) and coastal waters.
- 4.7.2 An Coimisiún Pleanála and other statutory authorities cannot grant development consent where a proposed development would give rise to a reduction in water quality.

4.7.3 The CUNLIN LOUGH STREAM\_010 (IE\_NW\_37C080400) is located c.178m to the south-east of the site. This waterbody is classified as good ecological status. This is illustrated on the EPA mapping (<https://gis.epa.ie/EPAMaps/>).

4.7.4 I have assessed the proposal and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

4.7.5 The reason for this conclusion is as follows:

- The proposal is relatively minor and comprises of the retention of car parking to the front of an existing dwelling on a fully serviced site within an established residential area.

## **5 The Appeal**

5.1 A third party appeal against the decision of Donegal County council to grant retention planning permission has been received from Mary and Charles Boyle. The grounds of appeal can be summarised as:

- The application is invalid as the works proposed for retention occur outside the redline boundary of the application. These works include excavation and re-levelling of the public footpath, construction of boundary kerbing, surfacing works extending into public land.
- Any decision to grant planning permission for development outside the redline area is ultra vires.
- Donegal County Council has effectively granted planning permission for land not included in the application-a legal impossibility.
- The applicant failed to identify that a significant portion of the works lie outside their own ownership, the works encroach into the public footpath a matter requiring the separate consent of the local roads authority, the application boundary does not include the land where the retention works have occurred.

- Failure to correctly identify the land involved is a breach of the legal requirements and has the effect of misleading both the planning authority and third parties, who cannot make informed decisions if the application boundary is inaccurate.
- The appellants care for a disabled son who requires safe unobstructed access, close monitoring from the dwelling and a consistent footpath and access level.
- The works have resulted in altered footpath levels, changes to gradients and kerb lines and narrowing or obstruction of access points. This compromises the ability of the appellants to safely access their home, particularly in emergency or care situations.
- The works are inconsistent with DMURS and Part M of the Building Regulations.
- The fact that retention permission has been applied for does not rectify the illegality of the process.
- Under the Roads Act 1963 the alteration of a public footpath requires the consent of the Roads Authority, no such consent was sought or granted.
- The development is unlawful both under the Planning Act and the Roads Act.
- The proposal would not comply with Policy T-P-1, H-P-7, SIG-O-4, and CS-P-6. The proposal does not comply with the Donegal County Development Plan and therefore cannot be permitted.
- The Board have repeatedly refused applications including retention applications where the applicant applied for development outside the red line boundary, the applicant failed to include all land necessary and the application was therefore invalid. Cases include RL3400, 301167-18, 303910-19, 307310-20.
- An Coimisiún Pleanála cannot regularise or approve an application that was invalid from the outset.
- Donegal County Council erred in granting retention permission because the application was invalid, the works includes works outside the red line boundary, public footpath alteration were unlawfully included with the application without

consent, neighbouring access and safety concerns were ignored, especially involving a disabled resident, the decision conflicts with Donegal County Council.

- An invalid application cannot be 'cured' post-submission, it must be refused.
- The Coimisiún is requested to declare the application invalid or refuse retention permission on the grounds that the works lie outside the application boundary, the application is misleading and contrary to law, adverse effects the appellants access and safety, the development is inconsistent with national and local planning policy.

## **5.2 Applicant Response**

5.2.1 A response has been received from Michael Friel Architects and Surveyors Limited on behalf of the first part. The response can be summarised as follows:

- Concerns related to the application being invalid were not brought up in the original objection. This objection ought not be considered by An Coimisiún Pleanála.
- Grounds relating to access required for the care of their disabled son was not brought up in the original objection, The access to the appellants will not be adversely affected as the footpath will be maintained at constant levels and it is impossible to see how the access or egress of the appellant or any other person would be adversely affected.
- The works were carried out without planning permission, they were, however, carried out with consultation with the Roads Engineer and the retention as granted indicates the specification to be met in order to comply with all appropriate standards.
- Submissions in relation to inaccurate or misleading information is a generic complaint which was not raised in the original application and lacks any specificity.
- Permission is habitually granted in respect of Retention Applications. In this instance the activity involves the adjustment of the pavement abutting the

property, this is perfectly normal and occurs in thousands of Planning Applications. The restoration of the footpath is party of the process.

- The Roads Section requested further information in the course of the process and the issue of the footpath and the standard to which it would be restored or completed has been addressed and is in compliance with planning norms.

### **5.3 Planning Authority Response**

5.3.1 None on file.

### **5.4 Observations**

5.4.1 None on file.

### **5.5 Further Responses**

5.5.1 None on file.

## **6 Assessment**

6.1 Having examined the appeal details and all other documentation on file, including the reports of the local authority and inspected the site. I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Procedural Matters
- Parking details / Road / Pedestrian safety
- Character of the area
- Flood Risk Management
- Appropriate Assessment Screening

### **6.2 Principle of Development**

6.2.1 The site forms part of a larger zoning 'Established Development 'in the Seven Strategic Towns (Killybegs) Local Area Plan 2018- 2024\* which has the objective '*To conserve and enhance the quality and character of the area, to protect residential amenity and*

*to allow for development appropriate to the sustainable growth of the settlement.'* The proposal comprises of a development which is consistent with residential development in a residential area and therefore is acceptable in principle, subject to a full assessment of the impact on the character of the area, residential amenity of the area and pedestrian / vehicular safety.

### **6.3 Procedural Matters**

- 6.3.1 The third party has outlined concerns that the application is invalid as the works proposed for retention occur outside the redline boundary of the application. These works include excavation and re-levelling of the public footpath, construction of boundary kerbing, surfacing works extending into public land. The third-party states that any decision to grant planning permission for development outside the redline area is ultra vires.
- 6.3.2 In response the first party response states that concerns related to the application being invalid were not brought up in the original objection. This objection ought not be considered by An Coimisiún Pleanála.
- 6.3.3 I note the concerns of the third party with respect to works being undertaken outside of the red-line boundary of the land. Having been on site and consulted the drawings lodged with the initial application and at further information stage I note these consist of works to drop the kerb to the north-east and south-east of the appeal site.
- 6.3.4 While I note that no letter of consent has been included with the application from the landowner for works (in this case the Local Authority), the report of the Roads Engineers submitted dated 9/10/25 states that the area roads office has no issue with what is being proposed as long as the footpath is reinstated to a standard that is suitable to accommodate vehicular traffic passing over it. I consider that, subject to the applicant reinstating the footpath to an agreed standard that the landowner has consented to the works. This matter could be dealt with by way of condition should the Coimisiún be of a mind to grant retention planning permission.

6.3.5 In any case, I note that the application was considered to be valid by the Planning Authority and I am satisfied that it is not the role of the Coimisiún to question the validity of the application.

6.3.6 The third party outlines a number of cases RL3400, 301167-18, 303910-19, 307310-20. I Have considered each of the cases listed by the appellant and in my view, each of the case numbers provided does not match the description provided. I note that case No. RL3400 relates to a Section 5 Declaration relating to Whether the construction of a pedestrian entrance is or is not development or is or is not exempt development. There is no discussion in this case relating to site boundary issues. Case No. 301167-18 relates to an invalid application for leave to apply for Substitute Consent. Whereas case No's 303910-19 and 307310-20 relate to opinions on consultations on SHD applications.

#### **6.4 Parking Details / Road / Pedestrian Safety**

6.4.1 I refer the Coimisiún to Darwing No. 01 'Site Layout' submitted with the applicant's further information response which shows that the in-curtilage parking area at the front of the site measures approximately 5.1 metres in length and 6.5 metres in width.

6.4.2 While I note that the Donegal County Development Plan does not provide dimensions to accommodate the footprint of a car within a front garden, I have considered the Parking in Front Gardens leaflet prepared by Dublin City Council which states that the dimension for car parking spaces in front gardens are 3 metres wide by 5 metres long. In my view, the measured width on the submitted plans is sufficient to accommodate car parking to the front of the dwelling without the car overhanging the public footpath. In my view the retention of the development is acceptable in this regard.

6.4.3 I note the concerns of the third party with respect to pedestrian access and pedestrian safety which is of enhanced importance given their care needs. In this regard I refer the Coimisiún to Condition 3 of the Notification of Decision to Grant Planning Permission which requires that all road works are to be undertaken in consultation with and to the satisfaction of the Roads Engineer. I also note that condition 4 requires that all vehicles shall be entirely parked off the public footpath and no part of any vehicle shall be permitted to intrude onto the public footpath or to block safe access by pedestrians on the public footpath. I am satisfied that the above conditions would ensure appropriate pedestrian safety.

6.4.4 With regard to vehicular safety, I am satisfied that the development for retention is acceptable. In this regard, I note that the Design Manual for Urban Roads and Streets, for Streets and Roads with a speed limit of 60km/h or less, which is applicable in this case. I note that there is no impediment to sightlines from the site. The walls of the adjoining properties are low, and the landscaping is not of a height or volume which would restrict views. I am therefore satisfied that the retention of the car parking to the front of the dwelling would not have any road safety implications.

## **6.5 Character of the Area**

6.5.1 The character of the properties on the north-western side of Harbour View has a broadly uniform composition in terms of layout, plot characteristics, architectural form, detailing and boundary treatments. The frontages of existing dwellings also have similar treatment of front garden areas. Car parking is provided on street to the front of dwellings.

6.5.2 However, it is noted that the dwellings on the south-eastern side of Harbour View do not share the same design, layout, and plot characteristics. It is noted that some of the one storey cottages on the southern side of Harbour View, including directly opposite the appeal site the appeal site does include in-curtilage parking (**Reg. Ref.** 2461926 refers)

6.5.3 While car parking to the front of the dwelling is not characteristic for every dwelling within Harbour View, I am of the view that, having regard to other dwellings with car parking to the front of the dwelling on the south-eastern side of Harbour View, the development for which retention is sought would not have an adverse impact on the character of the area and is therefore acceptable.

## **6.6 Flood Risk Management**

6.6.1 I have consulted the flood mapping system ([www.floodinfo.ie](http://www.floodinfo.ie)) and I note that the subject land is within Flood Zone 'C'.

6.6.2 Having considered all the foregoing; I consider the proposed development would not result increase the risk of flood either within the site itself or the surrounding area. The proposal is acceptable from a flood risk perspective.

## **7.0 Appropriate Assessment Screening**

- 7.1 I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The application is for retention of car parking to the front of the dwelling at No.25 Harbour View, Killybegs, Co. Donegal.
- 7.2 The appeal site is not located on or within any designated Natura 2000 site(s) or Natural Heritage Area(s). The Saint John's Point SAC (Site Code 000191) is located c. 4.9km to the south of the site. The Slieve League SAC (Site Code 000189) is located c. 11.5km to the west, the Slieve Tooy/Tormore Island/Loughros Beg Bay SAC (Site Code: 000190) is located c.12.6km to the north of the site and the Lough Nillan Bog (Carrickatlieve) SAC (Site Code: 000165) is located c.12.1km to the north-east of the site.
- 7.3 The West Donegal Coast SPA (Site Code: 004150) is located c. 8.1km to the west of the site, the Lough Nillan Bog SPA (Site Code: 004110) is located c. 12.1km to the north-east of the site.
- 7.4 In addition to this, the Saint John's Point pNHA (Site Code: 000191) is located c. 4.9km to the south of the site, the Coguish Bog pNHA (Site Code: 001938) is located c. 8.8km to the northwest of the site and the Slieve League pNHA (Site Code: 000189) is located c. 11.6km to the west of the site.
- 7.5 There is no hydrological link between the subject site and the European sites.
- 7.6 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.

## **8 Recommendation**

- 8.1 I recommend that retention planning permission be granted.

## **9 Reasons and Considerations**

- 9.1 Having regards to the grounds of appeal, the sites location with the settlement framework for Killybegs, the established pattern of development in the area, the policy framework provided by the *Donegal County Development Plan 2024-2030* and the *Seven Strategic Towns (Killybegs) Local Area Plan 2018- 2024* , it is considered that the retention of the development on site provides a safe car parking for the existing

dwelling which does not have an adverse impact on the amenity of neighbouring properties, does not constitute a road safety or pedestrian hazard and as such is consistent with the proper planning and sustainable development of the area.

## 10 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application received on 28/8/25 as amended by the further plans and particulars received by the planning authority on 21/10/25 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. Within 1 month of the date of this order all works which have been undertaken including any works to the public footpath and dipped kerbing shall be completed to the satisfaction of the Area Roads Engineer.

**Reason:** To cater for orderly development of the area and in the interests of pedestrian safety.

3. All vehicles shall be entirely parked off the public footpath, and no part of any vehicle shall be permitted to intrude onto the public footpath or to block safe access by pedestrians on the public footpath.

**Reason:** To cater for orderly development of the area and in the interests of pedestrian safety

4. Surface water drainage arrangements for the development to be retained shall comply with the requirements of the planning authority.

**Reason:** In the interest of public health.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

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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Ronan Murphy

11 March 2026

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

|   |   |                  |                                  |
|---|---|------------------|----------------------------------|
| <b>An Coimisiún Pleanála<br/>Case Reference</b>   | PL-500395-DL-25   |                  |                                  |
| <b>Proposed Development<br/>Summary</b>   | Balla Tosaigh a bhaint, Páirceáil lasmuigh den tsráid, Colbhaí a ísliú le haighadh rochtana agus cead chun na hoibreacha láithreáin a bhaineann leo a chur i gcríoch. |                  |                                  |
| <b>Development Address</b>  | 25 ASCAILL RADHAIRC AN CHUAIN, NA CEALLA BEAGA, CO. DHÚN NA NGALL   |                  |                                  |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings)  |   | <b>Yes</b>       | <b>X</b>                         |
|   |   | <b>No</b>        |                                  |
| <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>  |   |                  |                                  |
| <b>No</b>   | <b>X</b>  |                  |                                  |
| <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<br/>(if relevant)</b> |
|   |   |                  | <b>Conclusion</b>                |
| <b>No</b>   | <b>X</b>  |                  |                                  |
| <b>Yes</b>  |   |                  |                                  |

**4. Has Schedule 7A information been submitted?**

|            |          |   |
|------------|----------|---|
| <b>No</b>  | <b>X</b> | <b>Preliminary Examination required</b> |
| <b>Yes</b> |          | <b>Screening Determination required</b> |

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