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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Donegal County Council**

**Planning Register Reference Number: 20/51062**

**APPEAL** by Nigel McCutcheon of 41a Pettigo Road, Dorraanorth, Kesh, County Fermanagh against the decision made on the 18<sup>th</sup> day of February, 2021 by Donegal County Council to grant subject to conditions a permission to Pauline McLoughlin care of Kieran Gallagher of Doon, Termon, Letterkenny, County Donegal.

**Proposed Development:** Retention of existing site development works and permission for erection of a dwellinghouse with wastewater treatment system and a domestic garage, at Ballykerran, Kilmacrennan, County Donegal.

## **Decision**

**REFUSE** permission for the above proposed development in accordance with the reasons and considerations set out below.

## Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## Reasons and Considerations

1. Having regard to the location of the site in a stronger rural area, as identified in the Donegal County Development Plan 2018 – 2024, wherein policies aim to manage the extent of development, whilst facilitating those with a genuine rural-generated housing need, and to National Policy Objective 19 of the National Planning Framework which, for rural areas not under urban influence, seeks to facilitate the provision of single housing in the countryside having regard to the viability of smaller towns and rural settlements, it is considered that the proposed development would contribute to the creation and expansion of a suburban pattern of development in this rural area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure, and would be contrary to National Policy Objective 19 of the National Planning Framework and Policy RH-P-2 of the development plan, which aims to avoid rural housing developments leading to suburbanisation and the erosion of the rural character of an area. The proposed development and the development to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.



2. Having regard to the high density of housing in the area served by individual on-site wastewater treatment systems and the conditions on site, including the evidence of surface water ponding and soil compaction, as well as the insufficient evidence regarding the adequacy of the layers of soils and subsoils placed on site to treat wastewaters, as required within the 'Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)' 2009, and subsequent clarifications issued by the Environmental Protection Agency, the Board is not satisfied that it has been satisfactorily shown that the subject site is capable of safely disposing of wastewater generated by the proposed development, without prejudicing public health and the quality of receiving waters. The proposed development and development for retention would, therefore, be contrary to the proper planning and sustainable development of the area.
  
3. On the basis of the information provided with the application and the appeal, and in the absence of a Natura Impact Statement where one is required, the Board cannot be satisfied that the proposed development and the development to be retained, individually or in combination with other plans or projects, would not be likely to have a significant effect on Leannan River Special Area of Conservation (Site Code:002176), in view of the site's Conservation Objectives. In such circumstances, the Board is precluded from granting permission.



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**John Connolly**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this 12<sup>th</sup> day of AUGUST 2021.