



An
Bord
Pleanála

Inspector's Report 247131.

Development	Construction of a one storey dwelling and treatment plant.
Location	Lisfannon, Fahan, Lifford PO, Co Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	16/50037
Applicants	Bernard and Marie McShane
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellants	North West Golf Club Lisfannon Heights Residents
Date of Site Inspection	8 th December 2016
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is located at Lisfannon, Fahan, Lifford PO, Co Donegal, south of Bunrana, where the regional road R238 skirts the coastline of Lough Swilly; Lough Swilly to the west, the site to the east. The site has frontage to the regional road but access is from a private road, which rises steeply from the regional road. The boundary with the private road extends for in excess of 230m. There are two right angle bends along the frontage with the private road. The junction with the regional road is bounded by boundary walls of dwellings to either side and emerges within a row of dwellings.
- 1.2. The private road serves a housing development on steeply sloping land with fine views over the Lough. This development of individual houses, has the appearance of a development on serviced sites, although it is in a rural area removed from any settlement. On the date of inspection the road serving the development was in very poor condition, but a surface dressing vehicle arrived and appeared to be about to commence resurfacing work.

2.0 Proposed Development

- 2.1. The proposed development is the construction of a one storey dwelling and treatment plant.
- 2.2. Application documents submitted include a site characterisation form which states groundwater and surface water are considered to be targets at risk. The wells shown on historic OS map although not identified on the ground are considered to be outside the zone of influence of the treatment area. Proposed dwelling should be separated a minimum of 28m from existing communal septic tank. Proposed treatment area should be separated a minimum of 20m from the communal septic tank. The ground conditions at the proposed treatment area and vegetation suggest reasonable percolation. Percolation rates vary probably due to the degree of compactness of the soil. A packaged wastewater treatment system has been chosen in lieu of a septic tank system in order to minimise the size of the percolation area required. Polishing filter to be developed from existing selected excavated subsoil and imported sand and gravel.

- 2.3. A letter from Cllr John Ryan accompanied the application stating that the applicants have been living close to the site since 2006 when they purchased their existing home, which is in quite a poor condition and was only intended as a temporary residence until they were in a position to build a new home.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to grant permission subject to 10 conditions including: No 2 restricting residency; No. 4 requiring the maintenance of 50m visibility splays; No. 5 requiring the removal of the entire roadside boundary (private road) and its replacement with a fence, and the widening of the adjoining private roadway; No. 6 requiring the decommissioning of the existing storm water drainage serving Lisfannon hill residential development and its replacement.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Report of 4/7/16 is satisfied with responses to the further information request.

Report of 9/3/16 – application is similar to that previously refused – 15/51174, as the design and size of the proposed dwelling & the treatment plant are the same. The application site is larger and extends back to the private road along the southern boundary. The site is located in a rural area designated as being under strong urban influence. Policy RH-P-5 applies. A supporting letter from Cllr John Ryan has been submitted in support of the application which confirms the applicants' rural housing need in accordance with Policy RH-P-5. The applicant's bona fides has again been challenged; this was raised verbally with Cllr Ryan who confirmed the applicants' place and duration of residence, utility bills and PPS number to the host area. It is considered that the applicants comply with rural housing policy. In the landholding associated with this application, previous applications were refused for a variety of reasons, principally associated with visual and residential amenity, title, traffic safety, orderly development and public health.

PP 4257 pre-planning advice prior to 15/51174 – detailed response to Cllr Ryan the 9 no. advices and considerations. Not all had been taken, namely the retention of the rear boundary hedge and augmentation, the relocation of the dwelling towards the back of the site by 10-15m, details of proposals for the surfacing and drainage of the private access road to be submitted from the junction with the public road, and the means by which a derogation could be considered. Planning permission was then consequently refused for reasons relating to visual amenity, residential amenity, traffic safety (visibility splays and drainage/road upgrade works) and title to lands.

The current assessment will focus on whether this development addresses all the previous reasons for refusal.

The position of the proposed dwelling on this elevated site and the position relative to the dwelling lower level north: the site is now larger and extends back to the private road; the dwelling is relocated towards the back, 25m from the existing dwelling; considered acceptable.

Visibility splays at the entrance to the private road: inadequate visibility, inadequate traffic survey; further information required.

Visibility splays at the junction with the regional road: inadequate (only 120m to the north); the regional road is identified as part of the Strategic Road network and to be treated to national road standards; further information required.

Existing storm drainage infrastructure: information required on adequacy and evidence of legal entitlement to carry out upgrading work on private road; further information required.

Third party objection, issues:

- Bona fides of applicant

- His entitlement to use the private road.

- Civil matters

- Visual amenity and precedent.

- Water usage

- Power lines

- Privacy

- Existing infrastructure – storm drainage

- Flooding

Treatment plant
Address
Previous applications
Drawing inaccuracies
Future development.

3.3. A further information request issued (10/3/16) on 3 items:

- 1) An assessment of the 85th percentile speed of vehicles on the private road, in order to enable the planning authority to determine whether reduced vision line standards can be applied; and a site layout showing vision lines.
- 2) A revised site layout showing permanent vision splays of 215m in each direction at the junction of the private road with the R238.
- 3) Proposals for resurfacing the private road; construction of storm drainage collection on the private road; calculations of 1:100 year storm water event and calculations of design of storm water system; and legal interest in private road.

3.4. Response to further information request 21/6/16, from John Cantwell & Associates includes:

Storm water design calculations, carried out by Foyle Consulting Engineers, and a layout showing a surface water drainage pipe running along the private road. A line running along the eastern boundary of the site states 'this pipeline not required'. The drainage from the subject site and from the new drainage, to discharge to existing stream through Golf Club lands via a road crossing.

Traffic Speed Survey, carried out by Kevin McShane Ltd, 13 and 14th April 2016. 85th percentile speeds of 27kph and 27.5kph were recorded including an allowance for conversion to wet conditions. Re. the 'y' distance along the roadway, TD41-42 Table 7/1 of the Design Manual for Roads and Bridges, identifies a 50m 'y' distance for a speed of 42kph but not any details for lower speeds. For local roads with a speed of less than a 60kph the 'y' distance may be relaxed by one design speed step. A full one step relaxation from the normal may be given due to the little traffic on the road. For the 8kph step from 42kph to 50kph the visibility splay increases by 20m correspondingly a one step from 42 to 34kph would result in a 30m visibility splay requirement. The plans show sightlines of 35.58m in the critical direction and 23.3m

back to the 90⁰ bend. The speeds from this direction were slow as traffic traversed the 90⁰ bend and only accelerated as it approached the main road. The sightline has been provided back to this speed control feature.

Letter from Solicitor confirming right of access and right to carry out works on private road.

3.4.1. Other Technical Reports

None

3.5. Prescribed Bodies

None

3.6. Third Party Observations

Lisfannon Heights Residents (as above) and post further information:

- Traffic survey had the effect of causing a reduction in speed; the survey was in wet conditions; if the private road is resurfaced it will be used by more residents.
- Queries sightlines, through site not along road and their maintenance when cars are parked etc. relocation of entrance to sharp corner causes even more dangerous entrance. Existing entrances across the road have not been shown. No visibility for traffic in either direction, making turning movements extremely dangerous.
- No design for entrance and walls.
- Concerns re. existing sewer pipe crossing applicants site directly below the proposed entrance, not accurately shown on drawings.
- Concerns re access to infrastructure in the future if remedial works are needed; future control and maintenance of storm water on private road.
- Technical standards.
- Extra loading of a 600mm surface water pipe to Golf Club lands.
- Application details, validity etc.

- Want outstanding works carried out by CS Kelly and / or Inishowen Developers Ltd, and estate to be taken in charge.
- Query responsibility of 'owners' re liability for accidents on private road.
- Query applicant's right to use road.
- FFL is c 10m above regional road, impact on visual amenities.
- Visual impact of proposed entrance.
- Wild Atlantic Way

North West Golf Club

- Objects to 600mm pipe onto the golf course. The club currently has serious issues with the water running from this area. Some is untreated and is causing serious pollution to members, visitor's and washing out to sea.

4.0 Planning History

15/51174 construction of a one storey dwelling and treatment plant, Bernard and Marie McShane, refused for three reasons: 1) prominent position contrary to policy RH-P-2 of the CDP; 2) traffic safety and deficient sightlines contrary to S 10.2.10 of the CDP; deficient stormwater infrastructure and insufficient legal interest to carry out necessary upgrade. Site is part of the subject site which now includes additional lands to the east.

232863, PA Reg. Ref. 08/70758 - Construct house and decommission and remove treatment plant and install new sewer pipeline of 955 m for connection to public sewage network. Refusal reasons – 1) Inadequacy of existing sewer, 2) elevated position and design characteristics, constitute an obtrusive feature, 3) inadequate public notices and insufficient detail in drawings. Site overlaps with the subject site but is mainly to the south. Previous refusals are recorded on that file.

5.0 Policy Context

5.1. National Policy

Rural Housing Guidelines for Planning Authorities, Dept. of the Environment, Heritage and Local Government, April 2005

Relevant provisions include:

Site is located in an area under strong urban influence,

Piecemeal and haphazard development of rural areas close to large urban centres can cause problems as these urban centres grow in relation to: (1) The orderly and efficient development of newly developing areas on the edges of cities and towns. (2) Obstructing alignments for the future provision of infrastructure such as roads and electricity lines. (3) Undermining the viability of urban public transport because of very low densities. (4) Attendant later problems in terms of demands for higher public expenditure.

For applications in areas under significant urban influence applicants should outline how their proposal is consistent with the rural settlement approach in the development plan and should supply supporting information where appropriate.

Roadside Boundaries - The removal of existing roadside boundaries, except to the extent that this is needed for a new entrance, should be avoided where at all possible except where required for traffic safety purposes. Roadside boundaries, whether hedgerows, sod and stone bank, stone wall or other boundaries, provide important features that are elements of both the landscape and ecology of rural areas. The retention of such boundary treatments assists in absorbing new rural housing into its surrounding and should generally be encouraged. Occasionally, the removal of substantial lengths of roadside boundaries is proposed as part of an element of improving visibility at the junction of a new entrance onto a road. Where

an alternative site is available and otherwise suitable, applicants and planning authorities should consider such alternative on a basis that avoids the necessity for widespread boundary removal.

Holiday homes and second homes

For areas experiencing significant demand for holiday and second home development, development plans might include objectives and policies to the effect that certain sensitive scenic areas such as coasts, lakeside areas and uplands are limited in their capacity to carry very substantial levels of development and that such capacity as exists needs to be carefully managed. New holiday home schemes in such areas will be generally encouraged within established villages and small towns or in distinct clusters of development.

5.2. **Development Plan**

5.3. The County Donegal Development Plan 2012-2018 is the relevant plan.

5.4. Provisions which are relevant include:

5.5. The site is located in an area under strong urban influence, where holiday homes are not permitted and applicants for permanent homes are required to provide evidence of their connection to the area and housing need, RH-P-5.

5.5.1. A proposed dwelling will be unacceptable where it is prominent in the landscape, 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.

5.6. There are policies and objectives to safeguard the carrying capacity and safety of National roads and other strategic routes and to require that all development proposals comply with the Development and Technical Standards set out in Chapter 10 to promote road safety; which includes maximum acceptable gradients.

5.7. In certain instances a road safety audit may be required to better inform assessment of the safety implications of proposed development and to aid the identification of appropriate measures required to maintain safety standards. Safety audits may only be carried out by safety audit teams, the members of which have been approved by the NRA/Local authority. In developments where NRA DMRB Standards may be difficult to achieve, the applicant may submit alternatives supported by a feasibility stage safety audit for consideration.

5.8. **Natural Heritage Designations**

Lough Swilly SPA (site code 004075) and Lough Swilly SAC (site code 002287), are located adjoining the golf course.

6.0 **The Appeal**

6.1. Two third party appeals to the decision to grant permission have been received.

6.2. **North West Golf Club appeal**

6.3. Grounds of Appeal

- The club has been in place for 125 years. They have had to combat serious flooding and coastal erosion for decades particularly in the 1960's and 1970's causing damage resulting from storms and surface water. The 5th and 6th holes are constantly under pressure from such risks and require month by month monitoring.
- They are a major amenity and employer. Category 2 in landscape conservation plan, Lough Swilly is a national heritage area; Inch Island is a SPA / wildlife preserve.
- There have been severe instances of flooding of the 5th and 6th holes due to open ended drainage issuing from the upper side of the road, which contains effluent from the large housing development surrounding the proposed site, including raw sewage. This part of the course has had to be closed on the advice of the HSE.

- One tank takes effluent from 10 – 20 houses, has not been maintained for over 30 years, does not treat effluent and has no electrical supply.
- North West Golf Club have never consented to such discharge.
- The current discharge is threatening to undermine the public road.
- The material in the drain remains stagnant due to the lowlying nature of the land. It is unsafe to retrieve or handle golf balls, as normal on any links. This threatens the 5th and 6th holes remaining open for use at all times of the year; one of the strengths of a links course.
- They are constantly trying to manage drainage. They accept that water comes to them at three different road crossings, but flow has increased substantially on the Lisfannon Heights location and is now unmanageable, especially polluted waste water. They seriously question the 600mm surface water pipe carrying increased levels of surface water with same effluent, by a ratio of 5.
- A properly designed solution, to have sewage dealt with within owners' properties or communally, is required. They strongly object to the proposed development.

6.4. Lisfannon Heights Residents

6.5. Grounds of Appeal

- Questions applicant's roots in area.
- Privacy
- Traffic survey has effect of causing reduction in speed, survey was in wet conditions, if the private road is resurfaced it will be used by more residents.
- Queries sightlines, through site not along road, and their maintenance when cars are parked etc. Relocation of entrance to sharp corner causes even more dangerous entrance. Existing entrances across the road have not been shown. No visibility for traffic in either direction, making turning movements extremely dangerous.

- Painted fence not appropriate.
- Queries maintenance of sightlines along regional road.
- When will the road be taken in charge?
- Concerns re. existing sewer pipe crossing applicants site directly below the proposed entrance, not accurately shown on drawings.
- Concerns re. access to infrastructure in the future, if remedial works are needed.
- Future control and maintenance of storm water on private road.
- Technical standards for road resurfacing.
- Technical standards for drainage re taking in charge.
- Extra loading of surface water pipe to Golf Club lands.
- In the event of failure of the proposed treatment plant, further treatment plants or rainwater harvesting system within the land holdings, what effects on properties at lower level?
- Previous Board decision.
- Application details validity etc.
- Want outstanding works carried out by CS Kelly and or Inishowen Developers Ltd, upgrade and maintenance of sewage treatment plant, installation of street lighting, footpaths, kerbing and final surfacing of private road; and estate to be taken in charge.
- Query responsibility of 'owners' re liability for accidents on private road.
- Query applicant's right to use road. Land registry details show entrance from westerly direction.
- FFL is c 10m above regional road, impact on visual amenities.
- Visual impact of proposed entrance.
- Refusal a short distance away is cited:

Notwithstanding the fact that the principle of a dwelling at the subject site may be acceptable. The planning authority is seriously concerned about the

integration of physical development at the subject site with the associated scarring of the environment through the provision of the required access road, which in itself will create a distinct intrusion in the landscape and the associated paraphernalia and ancillary structures associated with a domestic structure at this location such as domestic garage, vehicles, vehicle storage area, boundary walls, washing lines, central heating, bins, storage, lighting, outdoor recreational and ancillary features such as garden furniture, children's play apparatus etc.

- Refusal, 06/70043, in same field is cited; although this was for a 2 storey house, it had a ridge level of 50.43m and the current application has a ridge height of c 57m and is as much of an intrusive, incongruous and discordant feature.
- Refusal, 15/51174, is cited, reasons still apply.

6.6. Applicant Response

John Cantwell, & Associates has responded on behalf of the first party to the third party appeals, including:

- The design of the surface water system was at the request of Donegal County Council and allows for up to 50 houses.
- One dwelling will have no significant impact on the surface water run-off and the existing drainage system is more than adequate.
- The design of the site entrance was at the request of Donegal Co Council. An alternative entrance location which was proposed is shown on a drawing supplied.
- The first parties live opposite the 5th and 6th fairways and have observed the flooding that occurs, which can be timed to the spring tides, which take place monthly. Photographs are supplied – taken 17/9/2016.
- The raw sewage which overflows from the Lisfannan Heights treatment plant onto the golf course and Lough Swilly is not part of the first party's application, and should be addressed with a named party acting on behalf of the residents.

- Any drainage that crosses the site can be protected during and after construction; designed, overseen and signed off by a registered structural engineer.
- First party requests that permission be granted subject to a condition that the upgraded surface water system be omitted and the alternative entrance location, shown on a map accompanying the response, be chosen.

6.7. Planning Authority Response

The planning authority response to the appeals refers the Board to the Planner's report.

6.8. Further Responses

Lisfannon Heights Residents

Lisfannon Heights Residents have responded to the first party response to the appeal. Their response includes:

- one of the conditions of the permission as granted is that the applicants install a new storm drainage system along the private road per revised drawings/details submitted, this should be a requirement. Any new infrastructure should be merged with the local authority infrastructure. The proposed rainwater harvesting has potential to have severe implications on the homes below. A proper road/surface water drainage system is required. The future maintenance of the system has not been addressed. They refer to condition no. 6.
- They consider that the proposed entrance is a danger to other road users and should not be permitted. Access is to a seriously substandard, in width and alignment, private road. Along the private road, from the regional road to the site, the road runs along private properties where the first party will not be able to maintain vision lines.
- The proposed entrance is located on an acute bend with restricted width, limited forward visibility, and is seriously hazardous.

- Proposed access will create a crossroads. Proposed access is opposite a pedestrian gateway and will endanger pedestrians, particularly young and elderly. Vision lines should be increased from 50m to 70m to take account of resurfacing and increased use by residents who no longer use the road.
- A further traffic survey by mechanical or electronic means is required.
- Concerned about the 'wet mix' patch up required by condition. Pre planning requirements were different.
- The alternative entrance proposed is the same as that previously refused permission by the Board, and they cite part of the reason for refusal.
- They question how sight lines can be maintained along the regional road at the junction with the private road. The line crosses third party lands, cars are parked along the road and a bus stops for passengers, all of which restrict sight lines. They consider that a right turning lane should be developed.
- They are concerned that the proposed dwelling will become yet another holiday home. They request the Board to check the first party's 'roots' in the area; and they question that someone can erect or purchase an up-approved dwelling, caravan or prefab and maintain that they reside there fulltime. Evidence such as the household charge database, property charge database, Republic of Ireland driving licence or previously refused planning applications are suggested as ways of implementing policy RH-P-5.
- They support the North West Golf Club Committee and agree that further man-made flooding should not be permitted.
- They are concerned regarding maintenance of existing services.
- A sewer pipe from third party representative's house runs through the proposed site entrance, and through the site to the communal treatment plant, since the house was built in 1974/75.

North West Golf Club

North West Golf Club have responded to the first party response to the appeal. Their response includes:

- The do not accept the adequacy of the surface water drainage; this is borne out by the County Council's interest in same and the issue arises of extra discharge to their lands.
- They have no interest in the design of the entrance.
- They are aware of the tidal influence; but such water is free from pollution. The sea water has a cleansing effect but then it subsides they are left with grey water containing human waste.
- If anyone is to speak to Lisfannon Heights Residents it should be the first party.
- Upgrading the surface water system is a matter for the County Council.

7.0 **Assessment**

7.1. The issues which arise in relation to this appeal are rural housing, traffic safety, visual amenity, drainage, other issues and appropriate assessment and the following assessment is set out under these headings.

7.2. **Rural Housing**

7.3. The site is located in an area identified in the Rural Housing Guidelines as an area under strong urban influence. The site is located in an area identified in the County Development Plan as an area under strong urban influence, wherein it is the policy to control development by requiring planning applicants to demonstrate their housing need and connection with the area.

7.4. This issue is raised by the Lisfannon Heights Residents who refer to various matters in relation to the first parties in this regard.

7.5. The information available to the planning authority on this file, on which the assessment of housing need and connection with the area is based, is a letter from a local County Councillor, which states that the applicants have been living close to the site since 2006 when they purchased their existing home, which is in quite a poor condition and was only intended as a temporary residence until they were in a

position to build a new home and further verbal assurances from the same source. In my opinion this is not the type of evidence which would be required to prove a local connection, and in addition, since the first parties have a home, the need for a new house does not appear to arise. Lack of evidence of compliance with the rural housing policies for this area, under strong urban influence, is a reason to refuse permission.

7.6. Traffic Safety

- 7.7. The proposed access is to a private road, which slopes steeply downwards towards a busy regional road, part of the Strategic Road network. The private road is used by numerous other houses in Lisfannon Heights, although an alternative access to the regional road is available to the south.
- 7.8. Traffic hazard is an issue raised by the Lisfannon Heights Residents who refer to various matters in this regard.
- 7.9. Arising from a further information request it is proposed to provide the access at a right angled bend on the private road. A very wide entrance splay is to be provided which could have the effect of easing the bend. Gradients in excess of 1:10 are recorded in this location and the splayed entrance may result in increasing existing excessive gradients. The private road is a narrow road with no footpath. The junction with the regional road is at a point where the maximum speed limit applies. There are direct accesses to other dwellings close to the junction and other road junctions close by. Notwithstanding the development plan requirement for a road safety audit in certain instances to better inform assessment of the safety implications of proposed development and to aid the identification of appropriate measures to maintain safety standards, no such safety audit has been obtained and the traffic count and speed survey which were supplied, while sufficient to allow a reduction in sight line standards, do not deal with all the traffic safety issues arising in this case. In my opinion the proposed access and the increase in traffic on this substandard private road would constitute a traffic hazard; and the increase in traffic turning movements at the junction of this road with the regional road would be hazardous; and this should be a reason to refuse permission. I note the first party's proposal to provide an alternative access at the right angle bend at the south eastern end of the site. An access at that location would be also be hazardous, if to a lesser degree,

and users would still have to utilise a seriously substandard road including the steep right angled bend referred to above and would exit to a busy strategic regional road, where the maximum speed limit applies.

7.10. Visual Amenity

7.11. The proposed dwelling would be located on a prominent site adjoining a regional road which is now part of the Wild Atlantic Way. A dwelling on this site would be highly visible from sections of this route and would detract from the visual amenities of the area.

7.12. The proposed development requires the removal of substantial lengths of roadside boundary. The Rural Housing Guidelines for Planning Authorities cautions against this and advises avoiding the necessity for widespread boundary removal. The county development plan requires that site access/egress be configured in a manner that does not constitute a hazard to road users or significantly scar the landscape.

7.13. I consider that the proposed development would adversely impact on the visual amenities of the area and that this is a reason to refuse permission.

7.14. Drainage

7.15. There are a number of issues arising under this heading. Lisfannon Heights Residents are concerned that the proposed access and roadway may impact a sewer line which runs through the site to a communal tank in the field to the south of the site. A dotted line shown on the site layout plan may be the line of sewer although no notation or explanation is given for this line. Another dotted line is located within the proposed alternate access. In my opinion existing sewer lines through the site require much more detailed design consideration and wayleave details than currently provided.

7.16. North West Golf Club have raised concerns regarding the malfunctioning communal sewage treatment and the discharge of untreated effluent from the tank to the south of the site. Although the communal sewage treatment plant is outside the scope of this application and appeal it would be of concern that the proposed on site effluent treatment would contribute in any way to this existing problem.

7.17. Both North West Golf Club and Lisfannon Heights Residents have raised the issue of the discharge of surface water from the proposed development and the increase in

flood risk to golf club lands. The first party states that the flooding is caused by spring tides and that the proposed development will not lead to any increase in flooding. North West Golf Club accept that tidal flooding occurs. They are concerned in relation to the grey water containing human waste in their open drains when the tidal flooding subsides and they do not accept the adequacy of the surface water drainage, and the extra discharge to their lands.

7.18. From the information available it is not clear what impact the proposed development would have on the Golf Club, in relation to flooding. No flood risk assessment has been provided. In light of the increased surface water discharge to these lands and the risk of increased flooding, it is considered reasonable that a flood risk assessment should be carried out.

7.19. **Other issues**

8.0 Lisfannon Heights Residents have raised issues in relation to the upgrade and maintenance of the sewage treatment plant, the installation of street lighting, footpaths, kerbing and final surfacing of private road; and the taking in charge of the estate. Other than the substandard nature of the private road and the lack of a public footpath, which have been referred to in relation to traffic safety, these are matters outside the scope of the current application/appeal but they point to the '*attendant later problems in terms of demands for higher public expenditure*', a difficulty in relation to piecemeal and haphazard housing development in rural areas close to large urban centres, cautioned against in the Rural Housing Guidelines for Planning Authorities, to which the proposed development would further contribute.

9.0 **Appropriate Assessment**

9.1. Lough Swilly SPA (site code 004075) and Lough Swilly SAC (site code 002287), are located about 100m away on the opposite side of the golf course and downstream of the subject site. The proposed development has the potential to impact adversely on these Natura sites.

9.2. The proposed development will involve major site works including the erection of a large berm to screen the dwelling to the east, and major excavations for a platform for the dwelling and for the site access and sightlines. The proposed development

includes an on-site effluent treatment system which is located on sloping ground close to extremely steeply sloping ground. On one site layout plan a surface water pipe is shown flowing downhill towards the Natura sites, close to the percolation area, on another site layout plan drainage channels enclose the percolation area.

- 9.3. The proximity to the Natura sites has not been given any consideration in the application documents. In the absence of any information in relation to the likely impact on the Natura sites the Board cannot be satisfied that the proposed development would not impact adversely on these sites.

10.0 Recommendation

- 10.1. In accordance with the foregoing assessment I recommend that planning permission be refused for the following reasons and considerations.

11.0 Reasons and Considerations

1 The private road to which access would be provided, which is used by many other households, is seriously substandard in width and alignment and the proposed alterations to this road and the additional traffic turning movements which would be generated by the site access, have not been subjected to a safety audit and are likely to create a traffic hazard, in addition this private road joins a strategic regional road at a point where the maximum speed limit applies, where the additional traffic turning movements which would be generated by the proposed development would increase the traffic safety risk along the regional road; the proposed development would therefore endanger public safety by reason of traffic hazard.

2 The applicants have not demonstrated compliance with the policies in the County Development Plan and in the Sustainable Rural Housing Guidelines in relation to their housing need and their connection to this rural area under strong urban influence and the proposed development would accordingly be contrary to the proper planning and sustainable development of the area.

3 From the documentation on file the Board cannot be satisfied that the development would not impact adversely on the Natura sites Lough Swilly SPA (site

code 004075) and Lough Swilly SAC (site code 002287); the Board is therefore precluded from granting permission for the proposed development.

4 In the absence of a flood risk assessment it cannot be determined that the proposed development would not increase the risk of flooding on the Golf Club lands, and the impact of such risk cannot be assessed.

Planning Inspector

12 December 2016

Appendices

- 1 Photographs
- 2 Extracts from Donegal County Development Plan 2012-2018
- 3 Site synopsis Lough Swilly SPA (site code 004075)
- 4 Site synopsis Lough Swilly SAC (site code 002287)