



An
Bord
Pleanála

Inspector's Report 307901-20

Development	36 no. dwelling units, a storm water attenuation system & connection to all public services
Location	Bluestack Drive, Drumroske West, Donegal Town
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	19/51970
Applicant(s)	Shaun Doherty
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Peter & Aoife Tooher
Observer(s)	None
Date of Site Inspection	4 th December 2020
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 1.32 ha and is located at Bluestack Drive, Drumrooske West, Donegal Town, Co. Donegal. The site is located on the north-western side of the town, in an area which is primarily characterised by residential developments.
- 1.2. The site itself is rectangular in shape and is bounded by Lough Eske Road to the south/south-east, a local access road to the west, detached residential dwellings to the north and east and a housing estate known as “Ros Mór” to the north-east. This estate includes 3-storey duplex blocks and 2-storey, semi-detached dwellings.
- 1.3. The western site boundary is characterised by intermittent mature trees and a footpath adjacent to the road. Mature trees are also present at the northern site boundary, and intermittently along the north-eastern and eastern boundaries. The southern/south-eastern site boundary is characterised by a post and wire fence, with no footpath provided at this location. The site slopes noticeably in a north / south and east / west direction and is characterised by grassland with pronounced clusters of rushes towards its northern end, which was wet underfoot at the time of the inspection.
- 1.4. A derelict dwelling is located opposite the site at the junction of Lough Eske Road and the local access road. Donegal Town Business Park extends around this derelict dwelling and is characterised by commercial units and a children’s play centre. Further residential development is located to the south/south-east of the site on the opposite side of Lough Eske Road. A small stream and area of open space adjoins the public road adjacent to this residential development.

2.0 Proposed Development

- 2.1. The proposed development consists of a housing development of 36 no. units including: (1) 2 no. detached bungalows; (2) 4 no. semi-detached bungalows; (3) 18 no. 2-storey houses in 7 no. blocks; (4) 12 no. apartments in 3 no. 2-storey blocks; and all associated site works including a storm water attenuation system and connection to all public services.

- 2.2. The scheme is arranged around 4 no. internal access roads, with the main route running parallel to the private road to the west. Two areas of open space are proposed, with the main space located in the north-eastern portion of the site and the smaller space located at the front of the site adjacent to Lough Eske Road.
- 2.3. The scheme was amended by way of the applicant's Further Information Response to include 35 no. dwelling units, comprising 12 no. apartments and 23 no. houses (2 no. detached units, 18 no. semi-detached units and 3 no. terraced units). The site layout of the proposed development generally remains the same.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission subject to 17 no. conditions issued on 16th July 2020.
- 3.1.2. Condition no. 4 requires that all infrastructure necessary to support the delivery of services and quality of life to the new residential development and its neighbourhood shall be completed before the first occupation of the dwellings.
- 3.1.3. Condition no. 7 requires the permitted traffic calming, signage and lineage to be agreed with the Planning Authority and installed and completed before the first occupation of the dwellings.
- 3.1.4. Condition no. 13 requires that, prior to the commencement of development, consultation be undertaken with the National Parks and Wildlife Service and Inland Fisheries Ireland regarding the treatment of the headwall within the site area.
- 3.1.5. Condition no. 17 requires the payment of a Section 48 (2)(c) development contribution in respect of the provision of footpath infrastructure in the area.
- 3.1.6. All other conditions are generally standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports (7th February 2020; 30th March 2020; 20th May 2020; 9th July 2020)

3.2.2. While Donegal County Council's Planning Officer considered that the development was acceptable in principle (report of 7th February 2020 refers), concerns arose in relation to the proposed residential density. It was also considered that the scheme layout required further consideration, including the layout of the 2 no. dwellings at the south-western corner, with pedestrian access to 1 of the dwellings provided through the front garden of the other, with no parking provided. The layout of the open space serving the apartment units on site nos. 26 – 33, which consisted of shared passageways, was considered confusing. The boundary treatment onto the private roadway extending along the western site boundary also required reconsideration.

3.2.3. On foot of the foregoing, a Request for Further Information issued on 21st February 2020 in relation to 5 items, as follows:

- (1) Revised drawings demonstrating a reduced density of development as set out in Table 9.1 of the Donegal Local Area Plan 2018-2024.
- (2) Details relating to site levels, site drainage, boundary details, public lighting, footpaths and cycleways, vision lines at sight entrance and details to facilitate the realignment of Lough Eske Road.
- (3) Details of hard and soft landscaping.
- (4) Scheme design/layout amendments, including the omission of the dwelling at the south-western corner of the site; provision of street frontage to the south-east of the proposed access road; boundary details to private road; revised elevational features to the 1st floor rear elevation of dwellings addressing the private road; increased lateral building lines between the proposed split level dwellings (HT3B) and terraced dwellings (HT2B/3B); detailed breakdown of internal floor space areas; and, revised external storage space.
- (5) Storm water design calculations for pipe network and attenuation for the site; calculation information on discharge rate of 2 l/s; maintenance strategy for attenuation systems to be designed for 1 in 100-year storm event; details of proposed outfall; revised drawings of manhole details and roads.

- 3.2.4. The applicant provided a response to Item No. 1 of the Request for Further Information only on 18th March 2020, which set out a rationale for the proposed development density. Donegal County Council's Planning Officer prepared a report in relation to this submission, (dated 30th March 2020), advising the applicant's agent that an increased density of development may be acceptable in principle, but that outstanding issues remained regarding the scheme layout, building lines and traffic concerns.
- 3.2.5. Two further submissions were made by the applicant on 28th April 2020 and 7th May 2020, which Donegal County Council deemed to constitute a response to the Request for Further Information. A total of 35 no. residential units were proposed under this response.
- 3.2.6. Following an analysis of the further information, Donegal County Council's Planning Officer recommended that Further Information of Matters Arising be sought in relation to the following (report of 20th May 2020 refers):
1. (a) Details of proposed retaining wall along the north-eastern site boundary.
 - (b) The replacement of pedestrian steps at the north-western site corner to a ramped access or similar.
 - (c) Revised boundary treatments along the south-western elevation having regard to the mix of galvanised railing and closed board timber.
 - (d) A detailed landscaping and maintenance plan for the area of ground adjacent to site nos. 22, 23 and 35 between the retaining wall and the site boundary.
 - (e) Details of surface finish and play furniture to proposed open space play area.
 - (f) Details of signing and lining of junctions on main access route and of advance signage on Lough Eske Road.
- 3.2.7. The applicant submitted a response to this request on 22nd June 2020. Donegal County Council's Planning Officer subsequently considered that the proposed development was acceptable and recommended that permission be granted subject to conditions (report of 9th July 2020 refers).

3.2.8. **Other Technical Reports**

3.2.9. **Roads and Transportation Department (8th January 2020, 12th May 2020; 7th July 2020):**

3.2.10. The Roads and Transportation Department (report of 8th January 2020) recommended that Further Information be requested in relation to: (1) drainage design calculations, including proposed attenuation and discharge rates to greenfield run-off rates; (2) drainage details to prevent surface water discharging to adjacent private road; (3) public lighting drawings and specifications; (4) vision lines in accordance with DMURS to the south-west of the site; (5) details of the retaining wall to the northeast perimeter of the site; (6) details of footpaths and cycleways in accordance with DMURS; (7) details of road realignment at Lough Eske Road.

3.2.11. Following the submission of the applicant's Further Information response, this department recommended that Clarification of Further Information be sought in relation to: (1) details of the retaining wall along the north-eastern site boundary; (2) replacement of pedestrian steps at north-western site corner with a ramped access or similar; (3) revisions to boundary treatment along the south-western elevation; (4) detailed landscaping and maintenance plan for area of ground adjacent to site nos. 22, 23 and 35 between the retaining wall and the site boundary; (5) details of signing and lining of junctions on main access route and of advance signage on Lough Eske Road (report of 12th May 2020 refers).

3.2.12. Following the applicant's response to the request for Clarification of Further Information, no objections arose to the development subject to conditions, including inter alia, the requirement to pay a €50,000 S. 48 (2)(c) contribution for the provision of footpath infrastructure in the area and a requirement for the applicant to consult with the NPWS and Inland Fisheries Ireland before the development commences (report of 7th July 2020 refers).

3.2.13. **Chief Fire Officer:** No objection to the proposed development subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** No response received.

3.3.2. **OPW:** No response received.

3.4. **Third Party Observations**

- 3.4.1. Two third party observations were made on this application from: (1) Peter and Aoife Tooher, Drumrooske, Donegal Town and (2) Michael and Marie McGarvey, Drumrooske, Donegal Town.
- 3.4.2. The issues which were raised can be summarised as follows: (1) loss of light and privacy and noise pollution to neighbouring residential dwellings; (2) excessive development density; (3) the site is a nesting area for the curlew and a habitat for the pine martin; (4) marshy on-site ground conditions; (5) capacity issues with local road network; (5) insufficient capacity in local schools; (6) increased social housing in local area; (7) poor standard of urban design; (8) unsafe road access; (9) outdated sewage system; (10) flooding.

4.0 **Planning History**

- 4.1. **Planning Authority Reg. Ref. 08/20418; ABP Ref. PL.05.234140:** Planning permission refused on 14th December 2009 for a mixed-use development comprising 20 no. residential units, 3 no. retail units, office use, car parking and all associated works for 3 no. reasons, including: (1) poor quality urban design; (2) poor level of residential amenity by reason of deficiencies in private open space, lack of semi-private open space, the location of the apartments relative to the offices, and the layout and quantum of the proposed car parking; (3) the prematurity of the proposed development with regard to recognised deficiencies in community facilities in Donegal Town.

5.0 **Policy and Context**

5.1. **Donegal County Development Plan 2018-2024**

5.2. **Core Strategy**

- 5.2.1. Donegal is identified as one of 8 no. Level 2a towns in the Core Strategy of the County. These settlements are identified as Strategic Towns due to their existing population base, their infrastructural capacity to accommodate reasonable levels of new housing and their role as key service centres at the sub-county level.

- 5.2.2. Table 2A.6 of the plan sets out a requirement for 21 ha of residentially zoned land in Donegal Town to cater for a population growth allocation of 461 no. persons to 2024. This results in a requirement for 171 housing units, based on an occupancy of 2.7 persons/household.
- 5.2.3. A total of 6.8 ha of “Primarily Residential – 1st phase” zoned lands are identified, with a housing yield of 82 no. units based on an average density of 12 units per ha. The county plan notes that the shortfall of zoned land to deliver the total number of required housing units shall be addressed through the Local Area Plan for the town.

5.3. **Housing Policy**

- 5.3.1. **UB-P-5:** It is the policy of the Council to guide urban residential development in a sequential manner, outwards from the core area in order to maximise the utility of existing and future infrastructure provision, promote the achievement of sustainability, avoid ‘leapfrogging’ to more remote areas and to make better use of underutilised land subject to compliance with Article 6 of the Habitats Directive (where applicable).
- 5.3.2. **UB-P-8:** It is a policy of the Council that new residential developments shall be laid out and orientated in order to make use of the landscape characteristics including local features and vistas, and maximise opportunities presented from passive solar gain. Development adjacent to amenity areas shall be orientated to face onto the amenity areas and provide maximum informal surveillance. Locating amenity areas to the rear of properties will not be permitted.
- 5.3.3. **UB-P-9:** It is a policy of the Council that direct pedestrian and cycle linkages shall be provided within proposals for new residential developments so as to interconnect with central amenity areas, adjoining neighbourhood developments and neighbourhood facilities subject to compliance with Article 6 of the Habitats Directive. Linkages shall be provided in addition to the primary access to the development and shall be designed to maximise passive surveillance from surrounding properties, be well lit and maintained and the materials and finish shall be of a high quality. Linkages that follow indirect routes and/or to the rear of properties shall normally not be considered acceptable.
- 5.3.4. **UB-P-11:** Proposals for residential development shall provide a mixture of house types and sizes in order to reasonably match the requirements of different household

categories within the Plan area, including those groups with particular special needs. The Council will seek to achieve a balance of housing stock to meet the needs and aspirations of the people residing within the Plan area.

- 5.3.5. **UB-P-12:** It is the policy of the Council both to protect the residential amenity of existing residential units and to promote design concepts for new housing that ensures the establishment of reasonable levels of residential amenity.
- 5.3.6. **Policy UB-P-13** requires that large residential infill sites shall reserve 10% of the site area as a public amenity area, which shall, inter alia, be conveniently located in the development, be of high-quality design and providing for multi-functional uses, provide adequate lighting and signage and highly accessible linkages with the surrounding footpath network.

5.4. **Seven Strategic Towns Local Area Plan 2018-2024**

5.5. **Land Use Zoning**

- 5.5.1. The site is subject to land use zoning “Primarily Residential” (PR2) under the provisions of the Seven Strategic Towns Local Area Plan 2018-2024, which sets out the local planning policy context for Donegal Town. Table 9.1 of the plan identifies the subject site as having an area of 1.267 ha, with the capacity to deliver 15 no. housing units.

5.6. **Housing Policy**

- 5.6.1. **Policy GEN-H-2:** It is a policy of the Council to consider proposals for multiple residential development (i.e. 2 or more units) on lands zoned ‘Primarily Residential’ and on specified ‘Opportunity Sites’ on the accompanying land-use zoning maps (Map1- 7) and also to consider proposals for residential development on lands within the defined town centres and ‘Established Development’ areas, subject to compliance with the specific policies for each individual settlement and with all other relevant policies of this LAP, compliance with the Habitats Directive and all other material planning considerations including environmental considerations.
- 5.6.2. **Policy GEN-H-10:** It is a policy of the Council that applications for housing on lands zoned ‘Primarily Residential’ shall have regard to the indicative housing yields for each site set out in this LAP and in the event the proposed housing density and consequent yield of housing units diverges significantly from the indicative housing

yields, the applicant shall demonstrate that the proposal is: (i) in keeping with the density of surrounding development and; (ii) would not have adverse impact on the amenities of adjoining properties, (iii) would otherwise come with all other objective and policies of this LAP and the requirements of the Habitats Directive and all material planning considerations including environmental considerations, and (iv) would not materially affect the Core Strategy of the CDP.

- 5.6.3. **Policy DT-H-2:** It is a policy of the Council that any proposal for residential development on 'Primarily Residential' site PR2 shall demonstrate a layout that does not result in a material negative impact on the residential amenities of existing properties to the east boundary in addition to compliance with all other relevant policies of this LAP.

5.7. **National Planning Framework (NPF): Project Ireland 2040**

- 5.7.1. The NPF seeks to secure compact and sustainable growth patterns in existing settlements to increase the supply of housing, support local services, and enable people to live closer to places of employment and recreational opportunities.
- 5.7.2. **National Policy Objective 3c:** Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.
- 5.7.3. **National Policy Objective 11:** In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- 5.7.4. **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- 5.7.5. **National Policy Objective 35:** Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.8. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December 2020)

5.8.1. The key development standards for apartment units in the context of this appeal case are summarised below:

- **Overall floor area:** 2-bedroom/3-person unit – 63 m² (not to comprise more than 10% of the total units). The majority of the units shall exceed the minimum floor area standards by 10%.
- **Unit Mix:** Max. 50% 1-bedroom units, with no requirement for 3-bedroom units.
- **Storage space:** 2-bedroom/3-person unit – 5 m². Storage for bulky items should also be provided outside individual apartment units.
- **Dual Aspect Ratio:** Minimum 50% dual aspect units; where single aspect apartments are provided, the number of south facing units should be maximised, with east and west facing units also acceptable.
- **Floor to Ceiling Height:** Min. of 2.4 m required, but 2.7 m encouraged.
- **Lift and Stair Cores;** Max. of 12 apartments per floor per core.
- **Private amenity space:** 2-bedroom/3-person unit – 6 m².
- **Communal amenity space:** 2-bedroom/3-person unit – 6 m².
- Private and communal amenity space may adjoin each other, but there should be a clear distinction, with an appropriate boundary treatment and/or a 'privacy strip' between the two.
- **Public open space:** None identified.
- **Bicycle parking:** 1 cycle storage space per bedroom, with visitor parking required at a rate of 1 space per residential unit.

Car parking: In suburban/urban locations served by public transport or close to town centres or employment areas (intermediate urban locations), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum standard.

5.8.2. Provision shall be made for the **storage and collection of waste** materials in apartment schemes. Refuse facilities shall be accessible to each apartment stair/ lift

core and designed for the projected level of waste generation and types and quantities of receptacles required.

5.9. Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)

5.9.1. The Guidelines state that each residential scheme within a small town should be designed to: (1) make the most effective use of the site; (2) make a positive contribution to its surroundings; (3) have a sense of identity and place appropriate to the character of the area; (4) provide for effective connectivity, especially for pedestrians and cyclists; (5) include a design approach to public spaces that is guided by the best principles of passive surveillance.

5.9.2. The Guidelines also advise on appropriate residential densities for edge of centre sites, where the emphasis will be on achieving a successful transition from central areas to areas at the edge. Given the transitional nature of such sites, densities to a range of 20-35 dwellings per hectare are deemed to be appropriate, including a wide variety of housing types from detached dwellings to terraced and apartment style accommodation.

5.10. Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

5.10.1. These Guidelines set out target gross floor areas for a range of different dwelling types. Those which are relevant to this appeal case are identified below.

House Type Bedroom (B) Person (P) Storeys (S)	Target GFA (m²)	Min. main living room (m²)	Aggregate living area (m²)	Aggregate bedroom area (m²)	Storage (m²)
2-B/3-P/1-S	60	13	28	20	3
2-B/4-P/2-S	80	13	30	25	4
3-B/5-P/2-S	92	13	34	32	5
4-B/7-P/2-S	110	15	40	43	6

5.10.2. The Guidelines also recommend the following:

- A main bedroom area of at least 13 m² in dwellings for 3+ persons
- Double bedroom of at least 11.4 m² (min. width 2.8 m)
- A single bedroom of at least 7.1 m² (min. width 2.1 m)
- Min. obstructed living room width of 3.6 m for 2-bedroom dwellings and 3.8 for 3-bedroom dwellings

5.11. **Northern and Western Regional Assembly Regional Spatial and Economic Strategy 2020-2032**

5.11.1. The RSES reflects the NPF objectives in relation to compact urban development and highlights that the health of villages and towns in the Region can be significantly influenced through the delivery of new housing by utilising existing buildings, brownfield/infill sites or otherwise.

5.11.2. **Regional Policy Objective 3.2 (c):** Deliver at least 30% of all new homes that are targeted in settlements with a population of at least 1,500 (other than the Galway MASP and the Regional Growth Centres), within the existing built-up footprints.

5.12. **Natural Heritage Designations**

5.12.1. The site is located approx. 0.4 km to the north-east of Lough Eske and Ardnamona Wood SAC and approx. 0.5 km to the north-east of Donegal Bay SPA and Donegal bay (Murvagh) SAC. Meenaguse/Ardbane Bog SAC is located approx. 6 km to the north-west of the site.

5.13. **EIA Screening**

5.13.1. Having regard to the nature and scale of the proposed development, comprising 36 no. residential units on zoned land in an established urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal has been lodged by Peter and Aoife Tooher, Drumrooske, Donegal Town, Co. Donegal, the grounds of which can be summarised as follows:

- The proposed development will seriously injure the appellants' property due to its proximity and density.
- The proposed dwellings will cause unnecessary illumination of the appellants' property and will result in a loss of privacy.
- The proposal fails to integrate successfully with the surrounding development in terms of its layout, scale and design and would result in a poor standard of urban design.
- The development would provide a poor level of residential amenity for future residents, in particular the apartments, by reason of a deficiency of private open space provision.
- The development will increase social housing in the area, with a large number of such properties existing in the Drumrooske area which is contrary to Project Ireland 2040 guidance.
- The distribution of social housing in Donegal Town is unbalanced compared with other towns in the county, which is contrary to S. 96 of the Planning and Development Act 2000 and the housing strategy of the Donegal County Development Plan.
- The local area does not have the capacity to absorb more traffic and population, with local primary schools unable to facilitate current intake numbers and a deficit of local community facilities.

6.2. Applicant's Response

6.2.1. A response was received from O'Connor Burke Architecture on behalf of the applicant on 3rd September 2020, which can be summarised as follows:

- The proposed development will not impact on the appellants' dwelling to the north-west of the site, due to the gable orientation of their dwelling onto the shared boundary, the set-back between the existing and proposed developments, the single-storey nature of the proposed dwellings at the shared boundary and the proposal to include 1.8 m close boarded fencing along the boundary.
- The appellants' property will not be impacted by public lighting given the position of their property relative to the proposed development. Public lighting is appropriate in an urban setting.
- The open space provision for the proposed apartment units is fully compliant with national guidelines and complies with best practice.
- An over-concentration of social housing does not exist in the local area, with the 2016 census results indicating that 68% of households are privately owned.
- The applicant has provided all necessary supporting infrastructure to facilitate the proposed development, with the local area plan not identifying any deficiencies with respect to infrastructure.
- The proposed development complies with national, regional and local planning policies which promote more compact growth, higher residential densities and a sequential approach to development.
- The proposed development density has been demonstrated to be acceptable in the context of neighbouring residential developments, as accepted by the Planning Authority, and would not materially affect the Core Strategy of the County Development Plan.
- The layout, orientation and finished floor levels of the proposed development have been carefully designed to ensure no overlooking or overshadowing will occur to adjoining properties.

6.3. Planning Authority Response

6.3.1. A response was received from Donegal County Council on 4th September 2020, which can be summarised as follows:

- The concerns with respect to impacts on the residential amenities of the appellants' property are unfounded, given the separation distances which arise, the scale of the proposed development and the proposed boundary treatments.
- The proposed dwellings are part of a turnkey development which are specifically designed for occupation by older people.
- The proposed development provides private open space at the required standards to meet the needs of future residents. Should the Board consider it appropriate, communal open space could be required by condition to serve the limited number of apartments in lieu of the individual spaces provided.
- The site is zoned for residential use and is within walking distance of the town centre and the services therein and offers proximity to a local shop, to primary schools within the town and to the north in Killymard that is accessible by public footpaths.
- The existing Bosco Centre is a community-based resource within 5 minutes walking distance of the site and is adjacent to a large area of open space which is well utilised. Construction has commenced on a large mixed-use scheme within 5 minutes-walk of the site, which will offer bulky retail and commercial uses. As such, it is considered that there is adequate existing and planned community infrastructure provision in the area.
- The majority of development in the locality is well established, having been constructed privately some years ago.
- As part of this and other development schemes in the locality, the Local Authority has imposed a Special Development Charge that will facilitate the upgrading of footpaths to provide a comprehensive pedestrian network.

- The Planning Authority strongly considers that the permitted development is in accordance with policies of the LAP and County Development Plan and the overarching aims of the National Planning Framework.

6.4. **Observations**

6.4.1. None.

6.5. **Further Responses**

6.5.1. None.

7.0 **Assessment**

7.1. The development as originally proposed included 36 no. dwelling units, comprising 2 no. detached bungalows; 4 no. semi-detached bungalows; 18 no. 2-storey houses in 7 no. blocks; and 12 no. apartments in 3 no. 2-storey blocks.

7.2. The scheme was amended by way of the applicant's Further Information Response to include 35 no. dwelling units, comprising 12 no. apartments and 23 no. houses (2 no. detached units, 18 no. semi-detached units and 3 no. terraced units). I am satisfied that the amended development remains generally consistent with the development description set out in the statutory notices, and as such, forms the basis of my assessment.

7.3. In my opinion, the main issues for consideration in this case include:

- Principle of the Development
- Layout and Design of the Proposed Development
- Proposed Residential Density
- Impact on Residential Amenities
- Impact on Local Infrastructure
- Appropriate Assessment

7.4. Each of these issues is addressed in turn below.

7.5. Principle of the Development

- 7.5.1. The appellants submit that the proposed development will increase social housing in this area and that a large number of such properties already exist in the Drumrooske area, which is contrary to Project Ireland 2040. It is also submitted that the distribution of social housing in Donegal Town is unbalanced compared with other towns of the county, which is contrary to Section 96 of the Planning and Development Act 2000 and the housing strategy of the Donegal County Development Plan.
- 7.5.2. In response to the foregoing, the applicant's agent submits that an over-concentration of social housing does not exist in the local area, with the 2016 census results indicating that 68% of households are privately owned. In their response to the third-party appeal, Donegal County Council submit to the Board that the proposed dwellings are part of a turnkey development and which are specifically designed for occupation by older people. The Planning Authority also submits that the majority of the development in the locality is well-established, having been constructed privately some years ago.
- 7.5.3. In considering the matter at hand, I note that housing policy UB-P-11 of the Donegal County Development Plan 2018-2024 requires that proposals for residential development shall provide a mixture of house types and sizes in order to reasonably match the requirements of different household categories in the Plan area, including those groups with particular special needs. The Council will seek to achieve a balance of housing stock to meet the needs and aspirations of people residing within the Plan area. The Planning Authority has confirmed that the proposed development has been designed for occupation by older people, which in my opinion, complies with policy UB-P-11. The site is zoned to accommodate residential land uses, and as such, I consider that the proposed development is acceptable in principle at this location.
- 7.5.4. In my opinion, the points raised by the appellants' regarding the extent of social housing which exists in the local area is not relevant to the assessment of this appeal case. The proposed development is subject to the provisions of Part V of the Planning and Development Act, 2000 (as amended) regarding the provision of social and affordable housing and an agreement in principle has been reached to transfer 4

no. units to the Planning Authority. While I note that a Part V condition has not been attached to the Notification of the Decision to Grant Planning Permission issued by Donegal County Council, I consider that an appropriate condition should be attached if the Board decides to grant planning permission for the proposed development.

7.6. Layout and Design of the Proposed Development

- 7.6.1. The appellants submit that the proposed development fails to successfully integrate with the surrounding development in terms of its layout, scale and design and would result in a poor standard of urban design. The appellants further submit that the development would provide a poor level of residential amenity for future residents, in particular the proposed apartment units, by reason of a deficiency of private open space provision.
- 7.6.2. In my opinion, the proposed development constitutes an appropriate urban design response to the subject site and its surrounding context, in terms of its layout and scale. The proposed development ranges from 1 – 2 storeys in height, stepping down towards the northern site boundary adjacent to the appellants' property. The existing dwellings within the Ros Mór housing estate to the north-east and the detached dwelling which adjoins the site to the east are elevated above the subject site, and as such, I consider that the proposed building heights would have no impact on these existing properties.
- 7.6.3. I further consider that the proposed development would provide an appropriate built edge which responds to the topography of the site fronting onto Lough Eske Road. While the rear of the dwellings along the western site boundary are orientated towards the adjoining private road and Donegal Town Business Park beyond, I consider that the development would serve to improve the character of the site at this location. I also note that a pedestrian entrance is proposed at the north-western corner of the site, which would enhance pedestrian activity along this roadway.
- 7.6.4. In addition, a new 2m wide footpath is proposed along the entire front boundary of the site at Lough Eske Road where none currently exists, which would further improve pedestrian connections in the area. I note that the Roads and Transportation Department of Donegal County Council recommended that the applicant be required to pay a development contribution towards the provision of footpath infrastructure in the area. A Section 48 (2) (c) condition has been attached

to Donegal County Council's Notification of the Decision to Grant Permission and I recommend that a similar condition be attached should the Board grant planning permission in this instance.

7.6.5. The amended development includes 35 no. dwelling units comprising:

- (1) 12 no. 2-bedroom/3-person apartment units (AT1, AT2, AT3 and AT4) which range in size from 68.8 m² – 79.8 m². These units are located on site nos. 1 – 4 at the south-western corner of the site and site nos. 25 – 32 in the central/eastern portion of the site.
- (2) 12 no. 2-storey, semi-detached dwellings which extend along the western site boundary adjacent to the private access road. House type HT2B comprises a 2-bedroom/4-person unit with a floor area of 88 m² (site nos. 6, 7, 8, 13, 14 and 15) while house type HT3B comprises a 3-bedroom/5-person unit, with a floor area of 99.6 m² (site nos. 5, 9, 10, 11, 12 and 16).
- (3) 2 no. 2-bedroom/3-person, single-storey bungalows (type HT2b SN) with a floor area of 70.5 m² located in the north-western corner of the site (site nos. 17 and 18).
- (4) 4 no. semi-detached, 2-bedroom/3-person bungalows (type HB 2B OP) with a stated floor area of 67.9 m² located adjacent to the northern site boundary (site nos. 19 – 22).
- (5) 2 no. semi-detached, 2-storey, 4-bedroom/7-person dwellings of 128 m² (type HTB4) adjacent to the eastern site boundary (site no. 23 and 24).
- (6) 3 no. 2-storey terraced dwellings, comprising 1 no. 2-bedroom/4-person unit and 2 no. 3-bedroom/5-person units of 88 m² (type HT 2B) and 99.6 m² (type HT 3B) respectively (site nos. 33, 34 and 35).

7.6.6. In reviewing the proposed **unit sizes**, I note that all units exceed the minimum floor area requirements of the 2020 Apartment Guidelines and the 2007 Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities.

7.6.7. I note that all of the proposed dwelling houses have regularly configured **private amenity spaces** comprising rear gardens with depths ranging from 7.8 m to 12 m. I consider that the layout of these spaces is acceptable.

- 7.6.8. However, I have concerns regarding the proposed configuration of the private amenity spaces serving the apartment units on sites nos. 1- 4 and 25-32. The private open space for each unit comprises a rear garden at ground floor level, resulting in the upper floor apartments being detached from their individual private amenity space. The appellants have also highlighted this as a concern and submit that the development would provide a poor standard of residential amenity for future apartment residents, by reason of a deficiency of private open space. In responding to this concern, the applicant's agent submits that the open space for the proposed apartments is fully compliant with national guidelines and complies with best practice. The Planning Authority submits that communal open space could be provided in lieu of the individual spaces, if considered appropriate by the Board.
- 7.6.9. Section 3.35 of the 2020 Apartment Guidelines states that it is a policy requirement that private amenity space shall be provided in the form of gardens or patio/terraces for ground floor apartments and balconies at upper levels. Section 3.36 of the Guidelines states that balconies should adjoin and have a functional relationship with the main living areas of the apartment. The upper floor apartment units of the proposed development do not comply with this policy directive. I also note that direct access has not been provided between a number of the ground floor apartment units and their associated rear gardens, with occupants required to access their amenity spaces externally through a side door serving the kitchen (unit no. 1 on site nos. 1-4, 25-28 and 29-32).
- 7.6.10. In my opinion, the private open space serving the apartment units has not been adequately resolved and would result in a substandard arrangement for future occupants. I further consider that it would not be appropriate to resolve this matter by way of planning condition, given the extent of the alterations which would be required to regularise this matter. As such, I consider that planning permission should be refused on this basis.
- 7.6.11. Two areas of **communal open space** are proposed within the site comprising 16.7% of the site area. A landscaping layout plan (drawing No. 19 refers) and a planting and maintenance schedule was submitted to the Planning Authority on 7th May 2020. The smaller space is proposed to the front of the site adjacent to the boundary with Lough Eske Road, while the larger space is located in the rear/centre of the site. Both of the spaces will be overlooked by the adjoining housing units. In my opinion,

the proposed layout and quantum of the proposed communal open space is acceptable.

7.6.12. I note that **car parking** is proposed by way of 2 no. on-site spaces within the curtilage of the proposed dwellings, except for those located on site nos. 18, 22 and 35, where parking is provided on the local access road to the front of the units. Car parking for the proposed apartment units is provided at ground floor level adjacent to each block, with 5 no. spaces proposed for the units on site nos. 1-4 and 25-28 and 6 spaces provided for the units on site nos. 29-32. In my opinion, the proposed configuration and quantum of parking is acceptable to facilitate the development.

7.7. **Proposed Residential Density**

7.7.1. Item no. 1 of the Planning Authority's Further Information Request required the applicant to submit revised plans demonstrating a reduced development density in accordance with the housing yields identified for the site under table 9.1 of the Local Area Plan. This table identifies a housing yield of 15 no. units, based on an identified site area of 1.267 ha. This equates to a density of 12 no. units per hectare, which reflects the density standard identified for all PR zoned lands in Donegal Town under the County Development Plan. The proposed development of 35 no. residential units equates to a density of 27 units/ha based on the stated site area of 1.32 ha. The appellants submit that the development density is excessive and will have a negative impact on the residential amenity of their dwelling, which adjoins the subject site to the north-west.

7.7.2. The applicant's Further Information response included an analysis of the residential density of existing and proposed residential developments in the northern quadrant of the town, extending between the N56 and the town centre. In this regard I note that the Ros Mór residential development to the north-east of the site has a density of 33 units/ha, while the development to the south-east of the site on the opposite side of Lough Eske Road (O'Duignan Avenue / O'Maolchonaire Avenue / O'Cleirigh Avenue) has a density of 28 units/ha. The densities of other residential schemes further to the north-east and east of the site range from 12 units/ha to 38 units/ha. The latter density relates to a planned residential development by Donegal County Council at Railway Park (Phase 3) which the applicant's agent notes to be located further from the town centre than the subject site.

- 7.7.3. The applicant's agent submits that the proposed development complies with national, regional and local planning policies which promote more compact growth, higher residential densities and a sequential approach to development. The applicant's agent also notes that the average density of 12 units/ha which applies to all PR zoned lands is not specifically tailored to individual sites. The applicant's agent highlights Policy GEN-H-10, which allows a case to be made where proposed housing densities on PR zoned lands diverge from the indicative housing yields identified in the LAP. It is submitted that the proposed increase in housing units to be accommodated on the site is not significant, as the density targets are not intended as ceiling limits, and as such, the proposed development would not materially affect the Core Strategy of the LAP. In this regard, I note that the proposed residential density has been accepted by Donegal County Council.
- 7.7.4. In my opinion, the proposed residential density would be acceptable on the subject site having regard to the provisions of national and regional planning policy, which support more compact forms of development to ensure the most sustainable use of urban land. I further consider that the proposed residential density would be appropriate having regard to the location of the site approx. 170 m north of the zoned town centre area and its location within an established residential neighbourhood with comparable residential densities.

7.8. Impact on Residential Amenities

- 7.8.1. The appellants submit that the proposed development will seriously injure their property due to its proximity and density, which will result in a loss of privacy and cause unnecessary illumination of their property.
- 7.8.2. In considering these issues, I note that the appellants' property is located to the north-west of the application site and comprises a detached 2-storey dwelling, with a detached single-storey garage. The gable elevation of the appellants' property faces onto the north-western boundary of the application site at a set-back of approx. 19 m. This elevation includes a window at the ground floor level, with no fenestration above at 1st floor level. The garage structure is located between the dwelling and the application site boundary.
- 7.8.3. In my opinion, the proposed development would not have a negative impact on the residential amenity of the appellants' property. In reaching this conclusion, I note that

8 no. 2-storey dwellings were originally proposed along the shared site boundary at the northern end of the site. The scheme layout in this location was subsequently amended by way of the applicant's Further Information response, which replaced the 2-storey dwellings, with 5 no. single-storey dwellings. I note that a separation distance of 30 m arises between the rear elevation of the dwellings on site nos. 21 and 22 and the gable elevation of the appellants' property, which as previously stated, has no fenestration at the 1st floor level. I further note that 1.8m high close boarded screen fencing is proposed along the shared boundary. In my opinion, the configuration of the proposed development and the boundary treatments at this location, would result in no loss of privacy to the appellants' property.

- 7.8.4. While the appellants submit that the proposed development will result in the unnecessary illumination of their property, I note from a review of the Public Lighting Sight Plan (Drawing No. 17), that the closest lighting to the appellants' property comprises 2 no. lamp standards located to the front of site nos. 18 and 21 at the northern end of the site. Given that this lighting is located within the application site at a separation distance of 25 m from the shared property boundary, I consider that no obtrusive lighting impacts would arise. As such, I consider that this point of appeal is unfounded.

7.9. Impact on Local Infrastructure

- 7.9.1. The appellants submit that the local area does not have the capacity to absorb more traffic and population, with local primary schools unable to facilitate intake numbers and a deficit of local community facilities.
- 7.9.2. I note from Donegal County Council's response to the appeal, that the proposed dwellings are part of a turnkey development and are specifically designed for occupation for older persons. As such, the proposed development is unlikely to generate any demand for additional school places. In my opinion, it is also reasonable to assume that the occupants of the proposed development may also display lower levels of car ownership. Notwithstanding the foregoing, the proposed development is located on a zoned residential site in an urban area which has been identified to meet housing demand over the local area plan period.
- 7.9.3. I further consider that the proposed development of 35 no. residential units is relatively small in scale, and notwithstanding its designation to cater for older

persons, would not likely result in any significant negative impacts on local infrastructure, including local schools and the road network. I note that no objections have been raised to the proposed development by the Roads and Transportation Department of Donegal County Council subject to conditions. I further note that the Planning Authority has confirmed there is sufficient existing and proposed community services and infrastructure in the local area to facilitate the proposed development. As such I consider that this point of appeal is without substance and that the proposed development would not have any significant impact on local infrastructure.

7.10. Appropriate Assessment (AA) Screening

- 7.10.1. The site is located approx. 0.4 km to the north-east of Lough Eske and Ardnamona Wood SAC and approx. 0.5 km to the north-east of Donegal Bay SPA and Donegal Bay (Murvagh) SAC. Meenaguse/Ardbane Bog SAC is located approx. 6 km to the north-west of the site. Donegal County Council's Planning Officer noted that the site was not located within or adjacent to a Natura 2000 site (report of February 2020 refers), with no further screening assessment being undertaken. The planning application documentation does not include an AA screening report or NIS.
- 7.10.2. The applicant's storm water drainage drawings and drainage summary report confirm that the storm water discharge from the neighbouring Ros Mór estate currently passes through the subject site. As part of the proposed site works, this storm water discharge will be incorporated into the new storm water network for the proposed development. Drainage Drawing No. 5 Rev. A (Storm Drainage Longitudinal Sections) as prepared by Foyle Consulting Engineers confirms that the storm water from the subject site is proposed to discharge into the stream on the opposite side of Lough Eske Road, where the installation of a headwall with a flap valve is proposed. No further details are provided in the planning application in relation to these works. I note that the Roads and Transportation Department of Donegal County Council recommended that the applicant undertake consultations with Inland Fisheries Ireland and the OPW in relation to this matter (condition no. 13 refers).
- 7.10.3. A review of the Environmental Protection Agency's online mapping facilities confirms that the subject stream (Eske_020) is hydrologically connected to Lough Eske and

Ardnamona Wood SAC (site code: 000163), Donegal Bay (Murvagh) SAC (site code: 000133) and Donegal Bay SPA (site code: 004151).

- 7.10.4. In my opinion, the proposed development has the potential to result in the deterioration of water quality downstream of the site, on foot of sedimentation and pollution arising from the storm water discharge. As such, the proposed development may have significant effects on Lough Eske and Ardnamona Wood SAC, Donegal Bay (Murvagh) SAC and Donegal Bay SPA, and therefore, the carrying out of an Appropriate Assessment of the proposed development is necessary.
- 7.10.5. Given the 6 km separation distance which arises to Meenaguse/Ardbane Bog SAC, and the lack of substantive ecological linkages, I consider that there is no potential for likely significant impacts to arise to this site, which can be screened out from the need for Appropriate Assessment.

7.11. **Appropriate Assessment**

- 7.11.1. The conservation objectives for **Donegal Bay SPA (site code: 004151)** are: (1) to maintain the favourable conservation condition of Great Northern Diver [A003]; (2) to maintain the favourable conservation condition of Light-bellied Brent Goose [A046]; (3) to maintain the favourable conservation condition of Common Scoter [A065]; (4) to maintain the favourable conservation condition of Sanderling [A144]; and (5) to maintain the favourable conservation condition of the wetland habitat in Donegal Bay SPA as a resource for the regularly-occurring migratory waterbirds that utilise it [A999].
- 7.11.2. The qualifying interests for this SPA are: (1) Great Northern Diver (*Gavia immer*) [A003]; (2) Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]; (3) Common Scoter (*Melanitta nigra*) [A065]; (4) Sanderling (*Calidris alba*) [A144], and (5) Wetlands [A999].
- 7.11.3. The conservation objectives for **Donegal Bay (Murvagh) SAC (site code: 000133)** are: (1) to maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide [1140]; (2) to maintain the favourable conservation condition of Harbour Seal [1365]; (3) to restore the favourable conservation condition of fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]; and (4) to restore the favourable conservation condition of humid dune slacks [2190].

- 7.11.4. The qualifying interests for this SAC are: (1) mudflats and sandflats not covered by seawater at low tide [1140]; (2) Harbour Seal (*Phoca vitulina*) [1365]; (3) fixed coastal dunes with herbaceous vegetation ('grey dunes') [2130]; and (4) humid dune slacks [2190].
- 7.11.5. The conservation objectives for **Lough Eske and Ardnamona Wood SAC (site code: 000163)** are: (1) to restore the favourable conservation condition of oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110]; (2) to maintain the favourable conservation condition of petrifying springs with tufa formation (*Cratoneurion*) [7220]; (3) to maintain the favourable conservation condition of Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles in Lough Eske and Ardnamona Wood SAC [91A0]; (4) to restore the favourable conservation condition of Freshwater Pearl Mussel (*Margaritifera margaritifera*) [1029]; (5) to restore the favourable conservation condition of Atlantic Salmon (*Salmo salar*) [1106]; and (6) to maintain the favourable conservation condition of Killarney Fern (*Vandenboschia speciosa*) [6985].
- 7.11.6. The qualifying interests for this SAC are: (1) oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110]; (2) petrifying springs with tufa formation (*Cratoneurion*) [7220]; (3) old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]; (4) Freshwater Pearl Mussel (*Margaritifera margaritifera*) [1029]; (5) Salmon (*Salmo salar*) [1106]; and (6) Killarney Fern (*Trichomanes speciosum*) [1421].
- 7.11.7. The proposed development does not occur directly within the identified protected sites, and as such, **direct impacts** on habitats or species will not arise. In my opinion, there is potential for **indirect impacts** to occur to the water dependent qualifying interests within these protected sites due to the proposed hydrological connection which arises on foot of the proposed storm water drainage arrangements. In particular, I note that the online resources of the NPWS confirm that the Freshwater Pearl Mussel is a highly threatened animal, categorised as critically endangered in Ireland and across Europe and listed on Annex II and Annex V of the Habitats Directive. It is also confirmed that the mussel habitat is severely impacted by sedimentation.

7.11.8. Thus, using the source-pathway-receptor concept, I consider that the proposed development has the potential to have a significant effect on Donegal Bay SPA (site code: 004151), Donegal Bay (Murvagh) SAC (site code: 000133) and Lough Eske and Ardnamona Wood SAC (site code: 000163) by way of the hydrological connections arising on foot of the proposed storm water drainage arrangements. As such, I recommend that planning permission should be refused on this basis.

8.0 Recommendation

8.1. I recommend that planning permission be refused for the proposed development for the reasons and considerations set out hereunder.

9.0 Reasons and Considerations

9.1. The proposed development, by reason of its inadequate qualitative provision of private open space to serve the proposed apartment units, would conflict with the standards recommended in the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities" published by the Department of Housing, Local Government and Heritage in December 2020, and as such, would constitute an inappropriate form of development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

9.2. On the basis of the information provided with the application and appeal, and in light of the Stage 2 Appropriate Assessment undertaken, the Board cannot be satisfied that the development, individually, or in combination with other plans or projects, would not be likely to have a significant effect on Donegal Bay SPA (site code: 004151), Donegal Bay (Murvagh) SAC (site code: 000133) and Lough Eske and Ardnamona Wood SAC (site code: 000163) in view of the sites' conservation objectives, by reason of the hydrological links arising on foot of the proposed storm water drainage arrangements. In such circumstances, the Board is precluded from granting permission.

Louise Treacy
Planning Inspector

26th April 2021