



An
Bord
Pleanála

Inspector's Report

ABP-309035-20

Development	Construction of a two-storey dwelling, domestic garage and treatment system with polishing filter.
Location	Deenystown, Letterkenny, Co Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	20/50943
Applicant(s)	Shaun McGinley
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party vs. Grant
Appellant(s)	John McFeely
Observer(s)	None
Date of Site Inspection	24 th March 2021
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. Located in the townland of Deenystown, approximately 2km northeast of the urban area of Letterkenny, the site is accessed via a network of narrow local roads between the R245 Letterkenny – Ramelton Regional Road (to the west) and Lough Swilly (to the east). The site is bounded to the north by one such county road and the immediately adjoining lands to the north and east contain a high density of one-off houses in the form of linear and backland development. The immediately adjoining lands to the south and west are undeveloped but, again, there is large concentration of one-off houses located approximately 80 metres southwest of the site.
- 1.2. The site has a stated area of 0.212ha and is annexed from a larger field. While there are no defined boundaries to the south and west, there are mature trees and hedging along the roadside to the north and a post and wire fence to the east. The site levels gradually fall from south to north and from west to east. The wider surrounding topography generally rises to the north, south and west, and is characterised by agricultural land and sporadic concentrations of one-off housing.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a two-storey dwelling with a stated floor area of 254m² and an overall height of c. 9 metres. A single-storey garage of 40m² is proposed to the rear of the dwelling. The house design is based upon a main two-storey element with a pitched roof and gable-front projection, which is flanked by single storey elements either side. The external wall finish is mainly smooth render, with sections of stone proposed around the front entrance and single-storey side elements. The proposed roof finishes are dark blue/black slates.
- 2.2. A new vehicular entrance and wing walls is proposed along the roadside boundary at the northeast corner of the site. On-site wastewater treatment is proposed via a Biological Aerated Filter mechanical wastewater treatment module and polishing filter before final discharge to groundwater. It is proposed to connect to the public mains water supply and to pipe all surface water to an existing drain along the roadside boundary.

3.0 Planning Authority Decision

3.1. Decision

By order dated 3rd December 2020, Donegal County Council (DCC) issued notification of the decision to grant permission, subject to conditions. The following conditions of the decision are notable:

- Condition 2 requires amendments to the development to include:
 - Omission of windows and rooflights serving the roofspace
 - Reorientation of the dwelling and garage to face directly north
 - Additional landscaping to the south and west of the site
- Condition 3 requires an occupancy agreement in accordance with the terms of section 47 of the Planning and Development Act 2000 (as amended).
- Conditions 4 & 5 require the removal of the entire roadside boundary and the provision of sightlines and access arrangements as per CDP requirements.
- Condition 14 requires extensive landscaping around the site perimeter.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report can be summarised as follows:

- The Supplementary Rural Housing Application Form claims that the proposed dwelling will be the applicant's primary, principal and permanent residence, and that they have not been granted permission previously on another site.
- The site is within an 'Area Under Strong Urban Influence' as per the CDP and correspondence has been received from an Elected Member of DCC which confirms that the applicant has lived all his life in the Ballaghderg area of the 'Area Under Strong Urban Influence'. Therefore, he complies with the requirements of Policy RH-P-5 of the CDP and the principle of the development is acceptable, subject to compliance with standards and criteria.

- The proposed development would expand a suburban pattern of development that has emerged in the area; would add to ribbon development; and would be detrimental to the amenity of the area or other rural dwellers.
- The Senior Executive Planner has directed that, due to positive feedback at pre-planning stage, permission should be granted in this case. In that context, amendments are recommended to the site layout which would serve to overcome the aforementioned concerns by formally enclosing the established cluster of development. It is submitted that this will also address the concerns raised by the Board in a previous refusal for a dwelling on the opposite side of the road (P.A. Ref. 10/40228).
- The proposed house design is acceptable, subject to amendments.
- Proposals for vision lines of 90m to the northeast and 72m to the southwest are included and there are no further concerns in this regard.
- The EHO has confirmed the wastewater treatment proposals are acceptable, subject to conditions. There are no further concerns in this regard.
- A grant of permission is recommended, subject to conditions, which is reflected in the DCC notification of decision.

3.2.2. Other Technical Reports

- Roads Section: No objections subject to standard conditions.

3.3. Prescribed Bodies

Irish Water: No objections subject to conditions.

Health Services Executive: The EHO outlines that conditions relating to wastewater treatment and disposal should apply to any grant of permission.

3.4. Third Party Observations

- 3.4.1. Three third-party submissions were received from John Gallagher, 45 Errigal View, Ballaghderg, Letterkenny; Patrick McLaughlin, 3 Thornberry, Letterkenny; and John McFeely (the appellant) of Campbellstown, Letterkenny. The issues raised have been covered in the grounds of appeal (see section 6.0 of this report).

3.4.2. I note that the applicant responded to these submissions and contends that the submissions from John Gallagher and Patrick McLaughlin were vexatious. I note that the submissions were referenced in the DCC Planner's report and the individuals were informed of the planning authority's decision.

4.0 Planning History

Apart from pre-planning clinic discussions in relation to the subject application, there would not appear to be any planning history pertaining to the subject site. The following is of relevance in relation to the surrounding lands:

On the opposite (north) side of the road

P.A. Ref. 04/6296: Outline permission granted (1/2/05) for the erection of 3 no. dwelling houses (4 were applied for) and Ecopure 2000 sewage system.

P.A. Ref. 05/40256: Permission granted (31/1/06) for construction of 3 no. two storey houses and garages, communal waste water treatment system.

P.A. Ref. 10/40228 (ABP Ref. PL05D.238214): Permission refused (13/5/11) for construction of dwelling house, garage, including connection to existing treatment system, pump station and percolation area previously granted under planning permission ref. no 05/40256. The reasons for refusal can be summarised as follows:

- 1. The Board is not satisfied that the existing communal treatment system is operating satisfactorily, and the proposed development would pose an unacceptable risk of environmental pollution.*
- 2. The site is located within an area under 'strong urban influence' and the applicant does not come within the scope of the rural housing criteria for this location. An additional house would contribute to an excessive density, would further erode rural character, and would lead to demands for the provision of further public services and community facilities. The proposed development, and the precedent it would set, would be contrary to the Development Plan and the 'Sustainable Rural Housing Guidelines' and would be contrary to the proper planning and sustainable development of the area.*

To the rear (southeast) of the site

P.A. Ref. 17/51023: Permission refused (11/8/17) for the erection of a dwelling house with septic tank and all associated site development works. The reasons for refusal can be summarised as follows:

1. *The site is located within an 'Area Under Strong Urban Influence' and the Planning Authority is not satisfied that the applicant has a rural housing need in accordance with the requirements of rural housing Policy RH-P-5. The development would materially contravene the Development Plan and be contrary to the proper planning and sustainable development of the area.*
2. *The area has been subject to considerable pressure for 'one-off' housing. Having regard to the extent of existing housing and the proposal to expand the emerging suburban pattern of development, the proposed development would materially contravene Policy RH-P-2 of the Development Plan and be contrary to the proper planning and sustainable development of the area.*
3. *Having regard to the failure to demonstrate appropriate visibility splays, the proposed development would result in dangerous traffic cross-over movements, would endanger public safety by reason of a traffic hazard, be contrary to Policy T-P-15 of the Development Plan and be contrary to the proper planning and sustainable development of the area.*
4. *The proposed development would result in a multiplicity of individual entrances within a short section of road and would endanger public safety by reason of an obstruction of road users and/or other traffic hazard, and be contrary to the proper planning and sustainable development of the area.*

To the west of the site

P.A. Ref. 20/51527: Permission granted (25/1/21) for construction of a dwelling house, detached domestic garage and treatment system with polishing filter.

5.0 Policy Context

5.1. National Planning Framework (NPF)

5.1.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. Letterkenny is identified as a regional centre for growth the northwest and cross-border area, with the aim of strengthening Ireland's overall urban structure by providing an accessible centre of employment and services with the widest possible regional influence.

5.1.2. In planning for the development of the countryside, there is a continuing need for housing provision for people to live and work in the countryside, but also highlights the need to differentiate between types of rural areas and housing needs.

5.1.3. National Policy Objective 19 aims to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

5.2.1. In supporting sustainable housing development patterns in rural areas, the guidelines outline that planning authorities should identify the needs of rural communities in the development plan process and manage pressure for overspill development in the rural areas closest to the main cities and towns.

- 5.2.2. Development plans should identify the location and extent of rural area types set out in section 5.3.2 of the NSS (superseded by the NPF), including rural areas under strong urban influence; stronger rural areas; structurally weaker rural areas; and, areas with clustered settlement patterns. Having identified the rural area types, planning authorities should then tailor policies that respond to the different housing requirements of urban / rural communities and the characteristics of rural areas.
- 5.2.3. Chapter 4 of the Guidelines deals with development management and provides guidance aimed at ensuring that all the necessary information and documentation is assembled to facilitate an efficient and thorough consideration of applications.

5.3. Donegal County Development Plan 2018 – 2024

Rural Housing Policy

- 5.3.1. Section 6.3.1 of the Plan outlines that an assessment has identified rural area types which are classified in accordance with the Sustainable Rural Housing Guidelines. Map 6.2.1. outlines that the subject site is within an 'Area Under Strong Urban Influence', within which it is necessary to manage the extent of development while facilitating those with genuine "rural generated housing need".
- 5.3.2. Relevant objectives and policies can be summarised as follows:
- RH-O-2:** Support a balanced approach to rural areas which retain vibrancy
- RH-O-3:** Ensure new development provides for rural generated need
- RH-O-4:** Protect rural areas immediately outside towns to facilitate incremental growth and the appropriate use of services and infrastructure.
- RH-O-5:** Promote rural housing that does not detract from the landscape
- RH-P-1:** All proposals for rural housing shall be subject to the consideration of requirements relating to location, siting and design and the impact on landscape and views; the protection of Natura 2000 sites and other habitats; water quality; traffic conditions; disposal of surface water and wastewater; flood risk management; and the occupancy of the dwelling.
- RH-P-2:** Consider proposals that meet a demonstrated need (see RH-P-5) provided the development integrates successfully into the landscape and does not further

erode rural character. The Council will be guided by the considerations that a new dwelling shall:

1. Avoid creation / expansion of a suburban pattern of development
2. Not create or add to ribbon development
3. Not be detrimental to the amenity of the area or other rural dwellers or constitute haphazard development.
4. Not be prominent on the landscape and shall have regard to Policy T-P-15
5. Shall not fail to blend with natural features and or involve excessive excavation or infilling.

RH-P-5: It is a policy of the Council to consider proposals for new one-off rural housing within Areas Under Strong Urban Influence from prospective applicants that have demonstrated a genuine need for a new dwelling house and who can provide evidence that they, or their parents or grandparents, have resided at some time within the area under strong urban influence in the vicinity of the application site for a period of at least 7 years. The foregoing is subject to compliance with other relevant policies of this plan, including RHP-1 and RH-P-2. New holiday home development will not be permitted in these areas.

RH-P-9: Requires that all new rural dwellings are designed in accordance with the principles set out in Appendix 4 of the Plan 'Building a House in Rural Donegal – A Location, Siting and Design Guide'.

Landscape

- 5.3.3. Based on a Landscape Character Assessment (LCA) for Donegal, the County has been categorised into three layers of landscape value (Especially High Scenic Amenity', 'High Scenic Amenity' and 'Moderate Scenic Amenity').
- 5.3.4. The subject site is within an area classified as 'High Scenic Amenity', which are described as landscapes of significant aesthetic, cultural, heritage an environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.

5.3.5. Policy **NH-P-7** seeks to facilitate development in areas of ‘High Scenic Amenity’ of nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.

5.4. **Natural Heritage Designations**

The site is located c. 750 metres west of the nearest Natura 2000 site (Lough Swilly SAC) and c. 950 metres west of Lough Swilly SPA.

5.5. **EIA Screening**

Having regard to the nature and scale of the proposed development, comprising just one dwelling, 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**

The decision of DCC to grant permission has been appealed by John McFeely of Campbellstown, Letterkenny. The grounds of appeal can be summarised as follows:

- The site is located in the rural hinterland of Letterkenny, an area identified as ‘an area under strong urban influence’ in the CDP. The area has experienced significant pressure for one-off rural housing, which has led to an unsustainable development pattern involving urban sprawl; erosion of rural character; a proliferation of individual wastewater treatment systems; car dependency and traffic intensification; an inefficient pattern for infrastructure delivery; and a steady loss of biodiversity.
- The development is contrary to Policy RH-P-2 as it would, in conjunction with the 4 dwellings on the same side of this road, create ribbon development in a manner that would further erode the character of the area and exacerbate the

unsustainable pattern of development. The rotation and relocation of the dwelling does not alter this fact.

- With regard to the Development Plan criteria for considering ribbon development, it is stated that:
 - The application does not indicate that the applicant is the owner of the site or related to the owner.
 - Criteria relating to 'existing ribbon development' is not applicable.
 - The site is not an infill site.
 - The site is in a relatively open and flat field.
 - The development would not form a 'small cluster' and the planning authority has previously refused an additional house adjoining the existing suburban cluster (P.A. Ref. 17/51023 refers).
- The Board previously refused a dwelling on the opposite side of the road (P.A. Ref. 10/40228) on grounds that it would contribute to an excessive density of development and further erode rural character.
- Given the pressure for development in this area, Development Plan policy RH-P-5 and NPF Objective NPO-19 should be robustly and evidentially implemented. The statements made regarding the applicant's compliance with rural housing policy do not provide independent documentary evidence of an economic or social need to live in the subject area.

6.2. Applicant Response

The applicant's response to the grounds of appeal can be summarised as follows:

- The applicant has positively engaged in the planning process, which included positive feedback at pre-planning stage, and is happy to develop the site in accordance with the DCC decision.
- The applicant is concerned that the appeal may be vexatious due to the selective / inconsistent nature of the objection and the concerns about the validity of addresses used for 2 of the 3 objections submitted to DCC.

- DCC’s assessment of the application, including the terms of condition no. 2 of the decision, applies a balanced and reasonable view of the relevant criteria and correctly concludes that the proposal does not constitute ribbon development and would comply with Development Plan policy.
- The proposed development serves to enclose an ‘existing cluster’ (as defined in the Development Plan), is not ‘suburban development’, and would comply with Development Plan policy.
- The previously refused application (P.A. Ref. 17/51023) was site-specifically different to the appeal site and was assessed under the previous Development Plan (2012-2018).
- The applicant has demonstrated a genuine need for a new dwelling as per Policy RH-P-5 and has provided the required information as confirmed by DCC. This has included a completed ‘Supplementary Rural Housing Application Form’ and the submission of a *Bona Fide* letter from an elected member of DCC, which is accepted practice in DCC to substantiate compliance with Policy RH-P-5.
- The proposal is in accordance with NPO19 of the NPF and establishes a social need for the applicant to live in the area due to:
 - the inadequacies of his current rented accommodation
 - family ties to the area, including his sister and her children
 - intentions to enrol one of his children in the Woodland National School
 - an absence of other suitable houses to satisfy family needs.

6.3. Planning Authority Response

The planning authority’s response can be summarised as follows:

- The applicant questioned the validity of the addresses provided for Mr Patrick McLaughlin and Mr. John Gallagher and the planning authority’s notification of decision to these individuals was returned as ‘Unknown at Address’.
- The existing spatial pattern consists of 2 distinct clusters of dwellings that read separately in the landscape, which retains its rural character. There has

been little, if any, development pressures on the area since the late 2000's, with only one dwelling being approved (P.A. Ref. 14/50975).

- The area is distinct from other townlands closer to Letterkenny where significant development pressures are evident. A balanced approach is required to different areas / townlands, depending on development capacity.
- The proposed development will have no personal direct impact on the appellant, who lives in the nearby townland of Campbellstown.
- Preplanning discussions established an acceptance of the principle of the development.
- The appellant has taken a very literal interpretation of ribbon development. Having regard to the topography, vegetation, and varying siting and design of existing development, it is considered that the proposed development will create a rural cluster of dwellings as opposed to ribbon development. The condition requiring the reorientation of the dwelling will create a worthwhile addition and 'bookend' the cluster to curtail further development potential.
- The proposed development would not erode the rural character of the area or exacerbate an unsustainable pattern of development and would comply with the provisions and criteria set out in Policy RH-P-2.
- The previous refusals cited by the appellant presented materially different issues. The concerns raised under P.A. Ref. 17/51023 largely related to backland development. The Board Inspector's assessment under PL05D.238214 raised no concerns about the existing spatial pattern and only cited the malfunctioning wastewater treatment system and housing need as refusal reasons in the recommendation.
- The NPF rural housing provisions are enshrined in Development Plan policy. The planning authority was satisfied that the applicant complied with RH-P-5 as the applicant's grandparents have been living in the Woodland area for more than 10 years and the applicant has cited social reasons for needing to live close to his grandparents in their old age years. A letter was included from an elected member confirming compliance with rural housing policy RH-P-5.

6.4. Observations

None.

7.0 Assessment

7.1 Introduction

7.1.1. At the outset I wish to acknowledge the concerns that the appeal may be of a vexatious nature. I note the issues raised by the applicant and the planning authority in relation to the addresses used by 2 of the 3 third-party objectors. However, the individuals involved are not parties to this appeal and the content of their submissions will not be considered in my assessment. Furthermore, there is no evidence that those submissions were in any way connected to the appellant.

7.1.2. The appeal is based on valid planning grounds and I do not consider that the absence of an objection from the appellant to other applications can be reasonably used as evidence of a vexatious motive in this case. Accordingly, I do not consider that there are grounds to dismiss the appeal under section 138 of the Planning and Development Act 2000 (as amended).

7.1.3. Having regard to the documentation submitted in connection with the application and the appeal, and having inspected the site, I consider that the main issues for assessment are as follows:

- Rural housing need
- Development pattern and character
- Traffic
- Wastewater treatment
- Appropriate Assessment

7.2. Rural Housing Need

7.2.1. In accordance with the Development Plan, the site is located within an 'Area Under Strong Urban Influence', within which it is necessary to manage the extent of development while facilitating those with genuine "rural generated housing need". Policy RH-P-5 of the Plan outlines that this is restricted to '*applicants that have*

demonstrated a genuine need for a new dwelling house and who can provide evidence that they, or their parents or grandparents, have resided at some time within the area under strong urban influence in the vicinity of the application site for a period of at least 7 years'. NPO-19 of the National Planning Framework (NPF) also outlines that such proposals should be accommodated '*based on the core consideration of demonstrable economic or social need to live in a rural area*'.

- 7.2.2. From the details available on file it would appear that the applicant is currently living in rented accommodation in the nearby urban area of Letterkenny. The applicant contends that the accommodation is inadequate for family requirements and, accordingly, he may have a genuine housing need. However, the key consideration is whether this is a genuine rural-generated housing need to live in the subject area.
- 7.2.3. The applicant's response to the appeal outlines that his sister and her family live in the area and that he hopes to enrol one of his children in the local school. A 'Supplementary Rural Housing Application Form' was originally submitted with the planning application, section 6.0 of which relates to Policy RH-P-5 and requests an indication of whether the application is based on the residency of the applicant, his parents, or grandparents. This section of the form has not been completed but a handwritten annotation on the DCC planner's report indicates that the form does outline that the applicant's grandparents live in the adjacent townland of Woodlands, which is reiterated in the planning authority's response to the appeal.
- 7.2.4. On the basis of the evidence and arguments provided by the planning authority and applicant, I note that the townland of Woodland, where the applicant's grandparents purportedly reside, is located c. 1.5km west of the appeal site, and the townland of Ballaghderg, where the applicant purportedly lived all his life, is located c. 3km west. Both townlands straddle the Letterkenny & Environs Plan Boundary, incorporating both urban zoned lands and the immediately adjoining hinterland outside the plan boundary. The available information does not clarify whether the applicant or his grandparents lived or live within an urban or rural area.
- 7.2.5. However, even if the relevant residences are within the rural hinterland, I am not satisfied that it would constitute a '*demonstrable economic or social need to live in a rural area*' as per NPO-19 of the NPF. Given the proximity of the townlands to the urban area, I consider that any social need for the applicant to reside in proximity to

Ballaghderg or his grandparents (at Woodland) could be satisfied as effectively from within the built-up and serviced area of Letterkenny as it would from the appeal site.

- 7.2.6. The site is located c.1.5km from the Letterkenny & Environs Plan Boundary and there is significant evidence of pressure for one-off housing in the intervening area, with an extensive pattern of one-off housing forming an almost continuous link along roads between the site and the Plan boundary. Objective RH-O-4 of the Development Plan recognises the need to protect rural areas immediately outside towns to facilitate incremental growth and the appropriate use of services and infrastructure. I consider that this is particularly important for Letterkenny as the 'Layer 1' settlement of the CDP and a designated Regional Growth Centre in the NPF. While the geographical application of objective RH-O-4 to 'rural areas immediately outside towns' is not specifically defined, I consider that it is relevant in this case given the strong pattern of development extending from the town.
- 7.2.7. Having regard to the above, I consider that one-off housing in the area should only be considered in cases where a clearly demonstrated need exists. In this case, sufficient evidence of a demonstrable economic or social need to live in this 'Area Under Strong Urban Influence' has not been presented and I consider that such development would be more appropriately directed to the town of Letterkenny, which is a designated regional centre for growth in the NPF.

7.3 Development pattern and character

- 7.3.1. In considering the extent and pattern of development in the area, I note that the planning authority contends that there is an absence of significant development pressure based on a review of planning permissions granted in the area within the last decade. It should be noted that this does not account for the recent decision to grant permission for a dwelling on a site located c. 40 metres west of the appeal site (P.A. Ref. P.A. Ref. 20/51527). The view would also appear to conflict with the decision to refuse permission under P.A. Ref. 17/51023, which, irrespective of differing circumstances, cited a concern that the area '*has been subject to considerable pressure for 'one-off' housing development in the past*'.
- 7.3.2. The planning authority also refers to the Inspector's assessment under ABP Ref. PL05D.238214 and concludes that there were no concerns about the existing spatial

pattern of development in the vicinity. The Board will, of course, be aware that the Inspector's recommendation is not a decision, and should note that the Board's decision clearly cited concerns that *'an additional dwelling at this location, when taken in conjunction with existing development in the area, would contribute to an excessive density of development, would further erode the rural character of the area, would militate against the preservation of this rural environment and would lead to demands for the provision of further public services and community facilities.'*

7.3.3. Ultimately, I consider that the pressures for development in this area are more accurately and obviously evidenced by the significant volume and pattern of development that has extended between the urban area of Letterkenny and the appeal site. Notwithstanding the concerns that I have already raised in this regard, the impact of the proposed development on this pattern of development and the character of the area must be considered on balance. In this regard, much of the appeal debate centres on whether the proposed development would constitute ribbon development or a suburban pattern of development. These are listed in policy RH-P-2 as key considerations in assessing the impact of the development on landscape and rural character.

7.3.4. Ribbon Development is discussed in detail in Appendix 4 of the Sustainable Rural Housing Guidelines, which cites an example as being where 5 or more houses exist on any one side of a given 250 metres of road frontage. Using that example, I consider that the proposed development would create a 5th dwelling within a stretch of <200 metres on the southern side of this road and, accordingly, would result in ribbon development.

7.3.5. I accept that the Guidelines recommend consideration of the case context, including the type of rural area and circumstances of the applicant; the degree to which the proposal might be considered infill development; and the degree to which ribbon development might be extended or coalesced. In this regard, I have already outlined concerns about the pattern and pressure for development in the area, and that no evidence of the applicant's circumstances has been provided to warrant favourable consideration. I do not consider that any argument can be made for the proposal constituting 'infill development'. On the contrary, I consider that the development of the appeal site, when taken in conjunction with the site recently permitted c. 40 metres to the west (P.A. Ref. 20/51527), would effectively create another infill

opportunity on the intervening land. Furthermore, there would be a genuine risk that further development would coalesce with another line of ribbon development c. 80 metres southwest of the site, a risk which is not unsubstantiated given the evidence of the established pattern of development in the area.

7.3.6. I note that the CDP interpretation of ribbon development promotes a balanced and reasonable view and highlights the need to consider the existence of physical / geographical breaks and the degree to which the proposals would form a small cluster. The planning authority argues that the existing topography and vegetation, as well as the varying siting and design of existing development, would mean that the proposed development, subject to amending conditions, will create a rural cluster of dwellings as opposed to ribbon development.

7.3.7. I consider that the rural character of the wider area has already been subject to significant erosion in concentrated locations, including the lands to the immediate east and north of the appeal site. This is particularly evident in the immediate environs of the site, but also when viewed from elevated land to the north (at Ballymaleel) and west (along the R245). While vegetation helps to mitigate the impact on rural character, I note that existing development has led to a significant loss of vegetation, which would be exacerbated by the proposed development and its necessary removal of the mature roadside boundary. I consider that the visual impact of the proposed development would have a cumulative impact with the existing group of houses to the immediate north and east, which would further erode the rural character of the area. Furthermore, I would have serious concerns that the continuation of this pattern of development would eventually lead to a cumulative visual impact with other concentrations of housing in the wider area.

7.3.8. The planning authority's view is that the proposed dwelling would create a 'cluster'. While I note the definition of 'existing cluster' provided in the Development Plan and the value of this development pattern in certain circumstances, I consider that the concept, whereby an organic pattern of varied siting and design would develop around a focal point in an enclosed arrangement, is not applicable in this case. I consider that the proposed house would extend the existing pattern of development, which shares similarities in terms of scale, character and siting in a suburban manner. It would adjoin development on one boundary only and cannot reasonably be considered a clustered arrangement in the traditional sense. Furthermore, I do

not consider that the reorientation and screening of the proposed dwelling would successfully mitigate the aforementioned concerns.

7.3.9 Having regard to the above, I consider that the proposed development would create ribbon development and expand a suburban pattern of development at this location, would contribute to an excessive density of development and would further erode the rural character of the area, which would be contrary to policy RH-P-2 of the Development Plan.

7.4 Traffic

7.4.1. The site adjoins a narrow local road, which joins another similar road at a junction located c. 40 metres to the southwest. To the northeast of the site the road has been significantly widened as a result of roadside setbacks associated with the construction of several houses. The application proposes sightlines of c. 70 metres from the proposed entrance to the junction to the southwest. Sightlines in excess of 80 metres are proposed to the northeast.

7.4.2. I note that the DCC roads section examined the proposed development and had no objections subject to the removal of all trees / hedging along the site boundary to achieve visibility splays. The DCC planner's report outlined that vision lines in accordance with CDP requirements were not strictly achieved but no further objection was raised in this regard.

7.4.3. Having inspected the site and considered the low levels of likely traffic volumes and speeds at this location, as is consistent with the applicant's 'Traffic Survey', I consider that the proposed sight distances would be adequate in this case from a traffic safety perspective. While I would have concerns that the development necessitates the significant removal of mature vegetation, I do not propose to raise this matter any further given the substantive concerns already outlined.

7.5 Wastewater treatment

7.5.1. In response to the 'EPA Code of Practice (CoP): Wastewater Treatment and Disposal Systems Serving Single Houses (2009)', the application includes a Site Suitability Assessment Report prepared by Michael Friel Architectural Design and

Surveying. It is proposed to install a Biological Aerated Filter mechanical wastewater treatment module and polishing filter before final discharge to groundwater.

7.5.2. The Site Characterisation Form identifies the aquifer type as 'Poor – Bedrock Aquifer which is generally unproductive except for local zones', with an 'extreme' vulnerability. Fractured bedrock was encountered at the base of the trial hole, a depth of c. 1.5 metres. It is stated that no groundwater was encountered in the trial hole. Soil conditions are described by the site assessor as being a gravely clay / silt with good drainage qualities. There is an existing drain along the roadside boundary to the north and Lough Swilly is located c. 1km to the east. Both groundwater and surface water are identified as potential targets at risk.

7.5.3. In accordance with the 'response matrix' outlined in the CoP, the site falls within the 'R2¹' category, which states that the risk of groundwater contamination from on-site wastewater treatment is acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Section 6 of the CoP are met and that the likelihood of microbial pollution is minimised.

7.5.4. Three separate percolation 'T' tests were carried out in accordance with CoP requirements and the average results give a 'T' value of 28.47. In accordance with the CoP, this would be suitable for a septic tank system or a secondary treatment system discharging to groundwater. On inspection of the site, I noted that the trial hole and tests (now filled in) appear to have been carried out at appropriate locations outside the polishing filter area. There is an extensive presence of rushes on the site, which suggests a high water table and/or poor percolation characteristics, and the northern portion of the site, where the polishing filter is proposed, was very wet in places. The water level in the drain along the roadside boundary was also almost at surface level. Rainfall levels in the period prior to site inspection were not excessive.

7.5.5. The site assessment recommends the following:

- A comprehensive drainage programme to lower the water level on site
- The installation of a BAF mechanical wastewater treatment module in accordance with EPA requirements

- Installation of a raised 120m² soil polishing filter with minimum depth of 0.9m using in-situ soils and, if needed, soils from site excavations.

7.5.6. I note that bedrock was reached at 1.5m below ground level. In response to this the applicant has proposed a raised polishing filter above/at ground level in order to achieve sufficient depth of subsoil above bedrock level. However, in accordance with the recommendations of the EPA CoP (including Appendix C.2.3), I consider that a P-Test should have been carried out at ground level to establish a percolation value for soils that are being considered to be used for a polishing filter discharging at ground surface. The applicant's site assessment contains a T-test only.

7.5.7. The site assessment report includes an 'Appendix A' showing the recommended site layout, which, I note, includes a separation distance of 10 metres from the roadside boundary drain. However, the proposed site layout has been amended and shows the polishing filter only 5 metres from the drain, which does not comply with minimum separation distances as per Table 6.1 of the EPA CoP. The proposed treatment system is also less than the required 3 metres from the site boundary. While the required separation distances may be achievable to the front of the dwelling (as per the position proposed by the applicant), it should be noted that this potential would be compromised by the planning authority's condition requiring the reorientation of the dwelling.

7.5.8. Accordingly, having regard to the concerns outlined above regarding site conditions on the day of my inspection; the absence of a 'P-Test'; and non-compliance with separation distances as per EPA requirements, I am not convinced that adequate evidence has been submitted to demonstrate that the site is suitable for the treatment and disposal of effluent.

8.0 Appropriate Assessment

8.1. Background

8.1.1 The applicant did not include an AA Screening Report as part of the application documentation. However, Donegal County Council did carry out a screening exercise and determined that an Appropriate Assessment is not required as it can be excluded on the basis of objective scientific information that the proposed

development, individually or in combination with other plans/projects will have a significant effect on a European Site – Lough Swilly SAC and Lough Swilly SPA.

- 8.1.2. Having reviewed the documents, drawings and submissions included in the appeal file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- 8.1.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development would have any possible interaction that would be likely to have significant effects on a European Site(s).
- 8.1.4. As previously outlined, the development involves the construction of a dwelling, garage, packaged wastewater treatment system and polishing filter. The existing site is entirely composed of grazing land and is bounded by a drain along the northern boundary. The site is surrounded by similar one-off houses to the northeast and undeveloped agricultural land to the southwest.
- 8.1.5. Taking account of the characteristics of the proposed development in terms of its location and scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European Sites:
- Construction phase impacts
 - Operational phase impacts
 - In-combination effects.

8.2 Submissions and observations

There have been no comments from prescribed bodies. The appellant does not raise any specific issues relating to Natura 2000 sites.

8.3 European Sites

- 8.3.1. The European Sites that occur within the possible zone of influence of the development are presented in the table below. Having regard to the scale of the proposed development; the separation distances involved; and the absence of

identified pathways; I do not consider that any other European Sites fall within the possible zone of influence.

Summary of European Sites within a possible zone of influence of the development

European Site (Code)	Qualifying Interests / Special Conservation Interests	Distance from development (metres)	Connections (source, pathway, receptor)	Considered further in Screening
Lough Swilly SPA (004075)	Great Crested Grebe (<i>Podiceps cristatus</i>) Grey Heron (<i>Ardea cinerea</i>) Whooper Swan (<i>Cygnus cygnus</i>) Greylag Goose (<i>Anser anser</i>) Shelduck (<i>Tadorna tadorna</i>) Wigeon (<i>Anas penelope</i>) Teal (<i>Anas crecca</i>) Mallard (<i>Anas platyrhynchos</i>) Shoveler (<i>Anas clypeata</i>) Scaup (<i>Aythya marila</i>) Goldeneye (<i>Bucephala clangula</i>) Red-breasted Merganser (<i>Mergus serrator</i>) Coot (<i>Fulica atra</i>) Oystercatcher (<i>Haematopus ostralegus</i>) Knot (<i>Calidris canutus</i>) Dunlin (<i>Calidris alpina</i>) Curlew (<i>Numenius arquata</i>) Redshank (<i>Tringa totanus</i>) Greenshank (<i>Tringa nebularia</i>) Black-headed Gull (<i>Chroicocephalus ridibundus</i>) Common Gull (<i>Larus canus</i>) Sandwich Tern (<i>Sterna sandvicensis</i>) Common Tern (<i>Sterna hirundo</i>)	950	Potential hydrological connection from wastewater and/or surface water to the drain on site and the stream located c. 40m further north, which flows into Lough Swilly.	Yes

	Greenland White-fronted Goose (Anser albifrons flavirostris) Wetland and Waterbirds			
Lough Swilly SAC (002287)	Estuaries Coastal lagoons Atlantic salt meadows Molinia meadows on calcareous, peaty or clayey-silt-laden soils Old sessile oak woods with Ilex and Blechnum in the British Isles Lutra lutra (Otter)	750	As per above.	Yes

8.3.2 The Conservation Objectives for these sites are to maintain / restore the favourable conservation condition of the Qualifying Interests / Special Conservation Interests outlined in the Table above.

8.4 Assessment of likely significant effects

8.4.1 In relation to potential construction-related impacts, I note that the site is not within or directly adjacent to any European Sites, which are located at least 750 metres from the development site. Potential impacts at construction stage include site clearance works, surface water run-off from excavation, and impacts on groundwater. The site is sufficiently distanced from European Sites to ensure that there will be no significant disturbance effects at construction stage.

8.4.2 There is a drain along the northern site boundary which may be connected to a stream c. 40 metres further north. The stream outfalls to Lough Swilly, as I suspect does all drainage in the area. There is, therefore, a potential hydrological pathway between the potential temporary construction impacts (i.e. site clearance works, run-off etc etc.) and the European Sites. However, the route of the stream from the site to Lough Swilly is indirect and weak (in excess of 1.5km), which significantly reduces the potential for pathway impacts. Furthermore, Lough Swilly consists of a substantial estuarine water body, which would have significant capacity for dilution of any effects due to its volume and tidal movements. Accordingly, I consider that significant construction-related effects in relation to water quality are unlikely having

regard to the limited scale of the development; the separation distances involved; and the presence of substantial hydrological assimilative capacity.

8.4.3 With regard to habitat / species disturbance at operational stage, it is acknowledged that there will be on-site wastewater treatment and surface water disposal to the existing drain on site. I have outlined my concerns in relation to the suitability of the site for effluent disposal and, accordingly, there is the potential for effects on water quality as a result of hydrological links. Notwithstanding these concerns, and having regard to the nature and limited scale of the development, and the substantial hydrological buffer and assimilative capacity that would exist in the Lough Swilly water body (as previously outlined), I do not consider that the operation of the development is likely to cause significant effects on water quality or any associated effects on qualifying species or habitats.

8.4.4 In terms of cumulative effects, the development must be considered in the context of various other projects in the area. All extant developments in the area are similarly served by on-site wastewater treatment systems and have been screened out for appropriate assessment. As previously outlined, the proposed development would not be considered to have a significant impact in respect of emissions at construction or operational stage. Similarly, I do not consider that the development is likely to have any such cumulative impact with other developments.

8.4.5 The application site is not located adjacent or within a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species directly or ex-situ. The existing environment includes numerous on-site wastewater systems. The significant distance between the proposed development site and any European Sites, and the weak and indirect ecological pathway is such that the proposal will not result in any likely changes to the European sites that comprise part of the Natura 2000 network in Lough Swilly.

8.5 **Mitigation measures**

I do not consider that any measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.6 Screening Determination

The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

9.0 Recommendation

Having regard to the above, it is recommended that permission should be refused for the reasons and considerations set out hereunder.

10.0 Reasons and Considerations

1. Taken in conjunction with existing development in the area, the proposed development would constitute an excessive density of suburban type development in a rural area that is under strong urban influence. The development, if permitted, would result in the expansion and consolidation of a suburban pattern of development in the rural area, would further erode the rural character of the area and would be contrary to the provisions of Policy RH-P-2 of the County Donegal Development Plan 2018-2024 and the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April, 2005. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site within an area under strong urban influence as identified in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April, 2005, wherein it is policy to distinguish

between urban-generated and rural generated housing need, and having regard to National Policy Objective 19 of the National Planning Framework in relation to rural areas under urban influence, which states that it is policy to “facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area...having regard to the viability of smaller towns and rural settlements”, it is considered that the applicant has not demonstrated that he comes within the scope of the housing need criteria as set out in the Guidelines and has not demonstrated an economic or social need to live in this rural area in accordance with national policy. The proposed development, by itself and the precedent it would set for further development in a rural area under strong urban influence, would be contrary to the provisions of the 2005 Guidelines and National Policy Objective 19 of the National Planning Framework, and, accordingly, would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the soil conditions observed on inspection of the site, the absence of a ‘P-Test’ and non-compliance with the minimum separation distances required under the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (2009), the Board is not satisfied that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a mechanical wastewater treatment system and polishing filter. The proposed development would, therefore, be prejudicial to public health.

Stephen Ward
Senior Planning Inspector

29th March 2021