



An
Bord
Pleanála

Inspector's Report ABP309775-21

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| Development | Demolition of Existing Dwelling and construction of a replacement house. |
| Location | Figary, Fahan, Lifford, County Donegal. |
| Planning Authority | Donegal County Council. |
| Planning Authority Reg. Ref. | 2150024. |
| Applicant | Adrian Sheridan. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant. |
| Type of Appeal | Third Party -v- Grant. |
| Appellant | Sharon Carey. |
| Observers | None. |
| Date of Site Inspection | 23 rd June 2021. |
| Inspector | Paul Caprani. |

Contents

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|--|----|
| 1.0 Introduction | 3 |
| 2.0 Site Location and Description | 3 |
| 3.0 Proposed Development | 4 |
| 4.0 Planning Authority Decision | 4 |
| 4.1. Planning Authority Assessment..... | 4 |
| 4.2. Assessment by Planning Authority..... | 5 |
| 5.0 Planning History..... | 6 |
| 6.0 Grounds of Appeal..... | 7 |
| 7.0 Appeal Responses..... | 8 |
| 8.0 Natural Heritage Designations | 10 |
| 9.0 EIAR Screening Report | 10 |
| 10.0 Development Plan Provision | 10 |
| 11.0 Planning Assessment..... | 12 |
| 12.0 Conclusions and Recommendation..... | 19 |
| 13.0 Decision | 19 |
| 14.0 Reasons and Considerations | 19 |
| 15.0 Conditions | 19 |

1.0 Introduction

ABP309775-21 relates to a third-party appeal against the decision of Donegal County Council to issue notification to grant planning permission for the demolition of an existing dwelling and the construction of a replacement house at Figary, Fahan, in the south-west of the Inishowen Peninsula, County Donegal. The grounds of appeal argue that the proposed development will have an unacceptable and adverse impact on surrounding residential amenity.

2.0 Site Location and Description

- 2.1. The appeal site is located at Figary, Fahan, a small settlement approximately 5 kilometres south of Buncrana at the southern end of the Inishowen Peninsula. The appeal site is located on the grounds of what appears to be a former convent and is now used as a residential care home/nursing home which fronts onto the Station Road (R238 - Burnfoot to Buncrana Road). The site is located within the south-eastern corner of the grounds near the main entrance of the residential care/nursing home. Access to the dwellinghouse is located approximately 15 metres from the entrance to the care home off the R238. A one-way system prevails for access to the residential care home with the entrance located at the south-eastern boundary and the exit located at the south-western end of the site.
- 2.2. The site itself is roughly rectangular in shape and while its southern boundary runs along the Station Road (R238), as already stated, a single entrance to the site is taken off the internal access road serving the residential care home. The site has a width of c.30 metres and a depth of just less than 70 metres. It has a stated area of 0.19 hectares. It currently accommodates a single-storey rectangular dwellinghouse together with two small outbuildings and a front garden which fronts onto the R238. The existing structures are located to the rear of the site setback from the Station Road. The site also incorporates a notable slope downwards towards the road. A two-storey dwellinghouse is located to the immediate east of the site. This dwellinghouse incorporates a private amenity area including an outdoor seating area and glass patio doors along its western elevation directly opposite the subject site

and adjacent to the common boundary. The adjoining dwellinghouse is setback approximately 8 metres from the common boundary. A small single-storey cottage fronting directly onto Station Road is located approximately 35 metres to the south-east of the site. There are no other buildings within the immediate vicinity of the site. The nursing home is located approximately 190 metres to the north-west of the appeal site.

3.0 Proposed Development

3.1. Planning permission is sought for the demolition of the existing dwellinghouse and the construction of a large two-storey dwelling together with a single storey sunroom/orangery on the western elevation. The proposed dwellinghouse comprises of a large six bedroomed house with a gross floor area of 506 square metres. The dwellinghouse is to face southwards onto the R238 (Railway Road). The dwellinghouse is to accommodate living space accommodation at ground floor level with a double garage to the rear. Six bedrooms are proposed at first floor level. The dwellinghouse is to rise to a ridge height of 8.775 metres and is to incorporate a plaster render finish with a new wastewater treatment plant in the front garden of the dwellinghouse c.19 metres from the front of the dwellings. The proposed dwellinghouse is to utilise the existing access onto the internal access road serving the residential care home.

3.1.1. The proposed house a small underground storage area with a grass roof is to be located to the rear of the site. The storage area is accessed via a stairway from the garden area adjacent to the northern boundary of the site. It has a depth of 2 metres and a gross floor area of 18.2 square metres.

4.0 Planning Authority Decision

Donegal County Council issued notification to grant planning permission on the 13th January, 2021 subject to 9 conditions.

4.1. Planning Authority Assessment

4.1.1. Documentation Submitted with the Planning Application

The application was accompanied by a **Site Suitability Assessment Report**. The trial hole was excavated to a depth of 2.1 metres. It is noted that no bedrock or groundwater were encountered in the trial hole. The T test yielded a percolation area of 67.8. On this basis it was concluded that the site is not suitable for a conventional septic tank system. The higher than expected T values were most likely due to the compact nature of the subsoils. It is considered that the subject site is suitable for a secondary treatment system with discharge to groundwater. In this regard it is proposed to provide a Biological Aerated Filter (BAF) secondary packaged wastewater system or an equally approved system. Details of which are set out in Section 5 of the Site Characterisation Form.

A **covering letter** submitted with the application states that the proposed development seeks to address concerns raised in the inspector's report and the Board's decision in respect of 307760 (see Planning History below). The applicants have relocated the dwelling to the western boundary giving a greater separation distance from the neighbouring property. Furthermore, windows at first floor level have been relocated within the design in order to prohibit overlooking of the adjoining dwelling.

4.2. **Objections**

- 4.2.1. A letter of objection from the current appellant has been submitted the contents of which have been read and noted.

4.3. **Assessment by Planning Authority**

- 4.3.1. An appropriate assessment screening report concluded that the Planning Authority has determined that an appropriate assessment of the proposed development 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 or projects will not adversely impact on the Lough Swilly SAC or SPA.
- 4.3.2. The planner's report sets out details of the site location and description and the proposed development.

- 4.3.3. The planner's report makes reference to a number of internal reports¹.
- 4.3.4. The Executive Engineer's report suggests that there was no objection subject to conditions.
- 4.3.5. The Environmental Health Officer's report also concludes that there is no objection subject to conditions.
- 4.3.6. The north-west Greenway Team states that in order to facilitate the proposed greenway, the road will be realigned less than 1.5 metres at its widest point into the subject site. It is also noted that no reports were received from the Department of Culture, Heritage and the Gaeltacht, An Taisce or the Conservation Officer. Although it is noted that the Conservation Officer had no objection to the previous application.
- 4.3.7. In terms of the planning assessment, it is noted that the principle of a replacement dwelling on the subject site is acceptable. Details of the previous inspector's report in respect of ABP307760 (see below) are referred to in the planner's report and it is considered that the application which has been submitted in this instance addresses the concerns of the Board in respect of the previous application.
- 4.3.8. It is considered that access and proprietary wastewater treatment system arrangements are acceptable. It is also considered that no appropriate assessment issues arise. On this basis it is recommended that planning permission be granted for the proposed development.

5.0 Planning History

- 5.1. One relevant planning appeal file is attached. Under Reg. Ref. 307760-20 An Bord Pleanála in its decision dated 30th November, 2020 overturned the decision of the Planning Authority to grant planning permission for a dwellinghouse on the subject site. The dwelling in question was almost of an identical design and layout to that currently before the Board. The Board refused planning permission for the proposed development for a single reason which is set out in full below.

It is considered that the proposed development, by reason of its proximity to the eastern boundary of the site, would have an unacceptable impact on adjoining

¹ The Board will note that these internal reports do not appear on file.

residential amenity through overlooking and overshadowing, particularly giving the scope within the site to provide a greater separation from adjoining properties. The proposed development would therefore seriously injure the amenities of adjoining properties and would be contrary to the proper planning and sustainable development of the area.

6.0 Grounds of Appeal

- 6.1. The decision was appealed by Ms. Sharon Carey owner/occupier of the adjoining dwelling to the east. The grounds of appeal are outlined below.
- 6.2. The revised proposal does not allay the appellant's concerns regarding the impact of the proposed dwelling on adjoining residential amenity. The size and scale of the proposal will have an unacceptable impact on immediate surroundings, and in particular the appellant's home to the east.
- 6.3. The latest proposal states that the inspector's report in respect of the previous application has been taken on board and that the dwelling has been relocated 8 metres to the south and also closer to the western boundary increasing the separation distance between both dwellings from 11.75 metres to 16.2 metres. It is also stated that no windows overlook the appellant's property at first floor level. However, it is argued that the bedroom wing remains too close to the appellant's property boundary and will result in a significant overshadowing of the appellant's dwelling and private amenity areas. It is argued that the changes implemented in the current application are minimal and result in a minor relocation in respect of that already refused. It is argued that the size and scale of the dwelling at 9 metres in height will dominate the side of the appellant's home and continue to have an adverse overbearing impact on the appellant's amenity. It will also lead to unacceptable levels of overshadowing along the western boundary of the appellant's property which accommodates a patio and large windows serving the kitchen.
- 6.4. The fact that the applicant states that the proposed development would "diminish the overbearing nature of the proposal", acknowledges that there is nevertheless an overbearing impact. This it is argued is unacceptable.
- 6.5. It is noted that no actual assessment of loss of daylight or sunlight has been carried out notwithstanding the Board's concerns in relation to same in the previous

application and appeal. The dwelling has been repositioned mainly to the south and only marginally to the west without any real configuration in layout and design contrary to what was expressed in the inspector's previous report.

6.6. It is also considered that the proposed relocation to the south breaches to a very excessive degree, the established building line set by the existing bungalow and the applicant's dwelling. With the omission of the existing orangery, it is possible to both relocate the building westward and maintain the existing building line. It is also questioned why the applicant requires an underground storage area.

6.7. It is also queried whether an onsite treatment system proposed to serve a six bed and five bathroom dwelling accords with the EPA Guidelines. It is argued that with the relocation of the dwellinghouse, the large wastewater treatment system now proposed is located in an extremely confined area of the site with a high T value in close proximity to adjoining dwellings. It is also in close proximity to a European Site, as such the effluent treatment system would be contrary to EPA guidance.

Any redevelopment of the site should consider extending the existing dwelling on site or providing a dwelling which is commensurate with the confined nature of the site.

7.0 Appeal Responses

7.1. A response was received on behalf of the applicant by North-West Modern Designs the contents of which is summarised below.

7.2. The submission quotes extensively from the inspector's report in respect of ABP307760. It is stated that at the time of designing the proposed dwelling which was the subject of the previous appeal, the large patio area and large window at the gable end of the existing dwelling did not exist and therefore it was not apparent that this area was being used as an outdoor amenity at this time. It is stated that the appellant's dwelling was designed to have an amenity area to the rear of the kitchen and not along the western elevation.

7.3. The proposed footprint of the dwelling has been relocated within the site to address concerns in relation to overlooking and overshadowing. The applicant also carried out a shadow analysis to determine if the proposed relocation would cast a shadow on the neighbouring property. The shadow casting diagrams indicate that the level of

overshadowing would be negligible even during the months of November and December.

7.4. It is also stated that the proposed dwelling will be located within the settlement limit of the town of Fahan. The area immediately surrounding the site is made up of substantial two-storey dwellings. The site is surrounded by mature vegetation to the rear of the property allowing the proposed dwelling to sit in to the landscape.

7.5. The current application fully adheres to the inspector's recommendation made on foot of the previous appeal.

7.6. Donegal County Council's Response to the Grounds of Appeal

7.6.1. In terms of the impact on residential amenity by virtue of overdevelopment and overshadowing, it is noted that the previous inspector's report alluded to a more acceptable design and siting solution on site. On foot of this, the proposed replacement dwelling has been relocated further west giving a greater separation distance to the neighbouring property. The relocation to the west coupled with the relocation 8 metres further south on site, has moved the proposed dwellings further away from the common boundary and in doing so has reduced the overbearing nature of the two-storey structure.

7.6.2. While the appellant refers to a 9-metre-high dwelling, the Board should have regard to the fact that the applicant's dwelling sits 1.83 metres lower than the appellant's property, and this would reduce the dominance and overbearing impact from the proposed dwelling. The relocation of the proposed dwelling south-west will reduce the occurrence of overshadowing and will allow greater levels of daylight and sunlight penetration. Any overshadowing which would occur is considered to be satisfactory having regard to the suburban environment in which the dwelling is located.

7.6.3. With regard to impact on the building line, it is stated that there is no established building line along the northern side of the R238.

7.6.4. With regard to effluent treatment and disposal it is proposed to install a package wastewater treatment system and polishing filter to deal with the effluent. The Planning Authority would contend that the decommissioning of the existing septic tank and replacing it with a proposed new proprietary wastewater treatment

arrangement, would ensure the treatment and disposal of effluent generated by the proposed development will comply with necessary standards.

- 7.6.5. With regard to potential impacts on the Lough Swilly SPA and SAC, it is stated that the Planning Authority carried out AA screening. Having regard to the lack of any hydrological connection between the subject site and the SAC in question, it is considered that a Stage 2 Appropriate Assessment is not required.
- 7.6.6. The Planning Authority is satisfied having regard to the Environmental Health Officer's report that effluent from the proposed development can be adequately treated therefore not causing groundwater pollution. Notwithstanding the fact that a larger dwellinghouse with a bigger hydraulic loading is proposed on site, it is considered that the installation of new sanitary arrangements in accordance with the EPA Code of Practice will sufficiently deal with any effluent generated.
- 7.6.7. On this basis An Bord Pleanála are requested to uphold the decision of the Planning Authority and grant planning permission for the proposed development.

8.0 Natural Heritage Designations

- 8.1. The site is not located within or contiguous to a designated Natura 2000 site. However, the Lough Swilly SPA (Site Code: 004075) and the Lough Swilling SAC (Site Code: 002287) envelopes the coastal area approximately 120 metres to the south-west of the subject site on the opposite side of Railway Road (R238).

9.0 EIAR Screening Report

- 9.1. Having regard to the nature of the development comprising of a single dwelling in an urban area it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

10.0 Development Plan Provision

10.1. Donegal County Council Development Plan

- 10.1.1. The site is located within the settlement framework boundary for the settlement of Fahan as indicated in the County Development Plan (Layer 3 Town Maps), it does

not attract a specific land use zoning. The site is also located in an area designated as an area of 'High Scenic Amenity'. Areas of high scenic amenity are landscapes of significant aesthetic cultural heritage and environmental quality which 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 a scale, design and use that will enable the simulation of the receiving landscape and which does not detract from the quality of the landscape subject to compliance with all other objectives and policies set out in the development plan.

- 10.1.2. Policy NH-P-7 of the County Development Plan states that "within areas of high scenic amenity and moderate scenic amenity as identified on Map 7.1.1 of the development plan, and subject to other objectives and policies of this plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.
- 10.1.3. There are no designated scenic views towards the site. However, views across Lough Swilly Bay in the environs of the site are designated as scenic views.
- 10.1.4. Under WES-P-11, the plan states that proposals for a single dwelling (or equivalent) in an unsewered area will only be permitted where the Planning Authority is satisfied that the development when considered in addition to existing and previously approved development, would not adversely affect the ability to meet the objectives set out in the relevant River Basin Management Plan. When making a planning application the applicant must submit information on the type of onsite treatment system proposed as evidence to the suitability of the site for the system proposed. The site suitability assessors must carry out all assessments in accordance with the most recent guidance provided in the EPA Code of Practice.
- 10.1.5. The following are also required:
 - The wastewater treatment must comply with the latest revision of the Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses.
 - The proprietary treatment system where required, must have an Irish Agreement Board certification.

- Prior to the occupation of the dwelling, the Planning Authority shall be furnished with written evidence/certification confirming that the septic tank/wastewater treatment system has been installed in accordance with the terms and conditions of the grant of planning permission.
- Owners shall have in place a programme of regular operation and maintenance for the wastewater treatment system installed.

11.0 Planning Assessment

- 11.1. I have read the entire contents of the file, have had particular regard to the planning history pertaining to the site and the issues raised in the grounds of appeal. I have also familiarised myself with the policies and provisions contained in the County Development Plan and have visited the subject site and its surroundings.
- 11.2. The Board will note that a very similar application was determined by it under ABP307760-20 where the Board refused planning permission for the construction of a dwellinghouse of a similar size and scale on the basis that the proposed development by reason of its proximity to the eastern boundary of the site would have an unacceptable impact on adjoining residential amenity through overlooking and overshadowing. Furthermore, the Board concluded that, given the scope within the site to provide greater separation from adjoining properties, the footprint of the dwelling could be relocated in order to reduce the potential impact on amenity. Having regard to the fact that the subject site is located centrally within the settlement boundary framework for the settlement of Fahan and the proposal in this instance represents a replacement dwelling it is considered that that the principle of developing the subject site to accommodate a new residential dwelling is acceptable.
- 11.3. I consider that the Board can restrict its deliberations purely to the issues raised in the grounds of appeal namely:
- The Impact on Adjoining Amenity
 - Impingement on the Established Building Line
 - Proprietary Wastewater Treatment Issues Onsite
 - Appropriate Assessment Screening and the Potential to Impact on Natura 2000 Sites in the Vicinity

Each of these issues are assessed under separate headings below.

11.4. The Impact on Adjoining Amenity

- 11.4.1. As referred to above, the main issues which prompted the Board to refuse planning permission for the previous planning application on site was the proximity of the proposed dwellinghouse to the eastern boundary of the site which would have an unacceptable impact on adjoining residential amenities through overlooking and overshadowing. The eastern side of the appellant's house provides an important private amenity area for the appellants as it accommodates a decking area and an outdoor seating area. During the most recent site inspection it was noted that the appellant was in the process of erecting an awning around the decking area.
- 11.4.2. In order to address this issue, the applicant has, under the current application, relocated the house within the site to a position further west and further south. The new position of the dwellinghouse increases the separation distance between the existing and proposed dwelling from 10.3 metres, as per the previous application to 16.2 metres. The relocation of the dwelling will in my opinion have a material impact in alleviating and addressing potential impacts with regard to overlooking and overshadowing. Furthermore, the movement of the footprint of the building to a more southerly position within the site reduces the potential for direct overlooking of the appellant's amenity area.
- 11.4.3. The fact that it is proposed to incorporate no windows at first floor level on the eastern elevation of the proposed dwelling, will adequately address the issue of overlooking. In the previous application, it was proposed to provide three windows along the corridor area serving bedrooms 4 to 6. These have now been replaced by rooflights which in my view is acceptable as the rooflights will only serve a circulation corridor. Fenestration arrangements on bedrooms 4 to 6 are located on the western elevation of the building. One north facing window is located on the eastern elevation of the building serving bedroom no. 3. However, this window will only provide oblique views of the appellant's amenity area. The relocation of the footprint of the building to a more southerly position within the site will ensure that no direct overlooking of the appellant's amenity area will take place.
- 11.4.4. Having regard to the differential in ground levels between the appeal site and the appellant's site whereby ground levels on the appeal site are c.1.8 metres lower the

adjoining ground levels there is little potential for direct overlooking of the appellant's site at ground floor level.

11.4.5. With regard to overshadowing and overbearing issues, the relocation of the building within the site will also significantly reduce the impact of the structure in terms of overshadowing and being overbearing. The previous application which was refused by the Board was, at its closest point less than 3 metres from the common boundary. Under the current proposal the main bulk of the building has been moved further southwards and the rear return of the proposal is now situated c.9 metres from the common boundary of the site. The distance between the facing elevations of the two structures has been increased to over 16 metres which in my view is acceptable in a suburban area. The fact that the ridge height of the proposed development is c.2 metres lower than the appellant's ridge height will also reduce any potential impact in terms of being overbearing.

11.4.6. In terms of overshadowing, the differential in ground levels and the relocation of the building to a more westerly and southerly position will significantly reduce the potential for overshadowing. The applicant in the response to the grounds of appeal has submitted shadow casting diagrams for November and December which clearly illustrate that the appellant's dwelling and amenity area will be only partially overshadowed during the late afternoon in the mid-winter period. The level of overshadowing during the spring, summer and autumn months when the amenity area is most likely to be utilised will be much less and during the summer period when the azimuth of the sun path is much higher in the sky the appellant's amenity area is unlikely to experience any overshadowing as a result of the proposed development during the evening time. The impact in terms of overshadowing as a result of the relocation of the building within the site is in my view a significant improvement over that previously proposed and therefore is acceptable.

11.5. Impingement on the Established Building Line

11.5.1. The grounds of appeal suggest that the moving of the building to a more southerly position adversely impacts on the established building line along the R238. In relation to this, I would refer the Board to the site layout plan. While the existing building on site and the appellant's dwelling somewhat incorporate similar building lines, the same cannot be said for buildings in the wider area. Buildings to the east of

the subject site are setback a considerable distance from the roadway and behind the building line of the appellant's dwelling. Nazareth House Nursing Home likewise is setback a considerable distance from the roadway to the west/north-west of the subject site. The building line is further confused as a result of the existing single storey cottage located to the immediate south of the appellant's dwelling fronting directly onto the R238. The moving forward of the building line to a more southerly position within the site will not in my view look inappropriate or incongruous as there is no established building line in the wider area. Furthermore, as mentioned above, the relocation of the dwellinghouse to a more southerly position within the appeal site will have positive consequences for the appellant's dwelling in terms of reducing the overbearing nature of the building and would also reduce the potential for overlooking and overshadowing of the adjoining site to the east.

11.6. Proprietary Wastewater Treatment Issues Onsite

- 11.6.1. As in the case of the previous application and appeal, third party concerns were expressed that the size and scale of the residential dwelling which incorporates six bedrooms could give rise to environmental pollution on the basis that the on-site wastewater treatment system is located in a confined area and this could result in environmental pollution problems, particularly in relation to the presence of two Natura 2000 sites in the vicinity (see separate heading below). Having consulted the information contained on the site suitability report, I would not have major concerns in relation to the ability of the proprietary wastewater treatment system to cater for the dwelling proposed. The documentation submitted with the planning application form indicates that the existing public wastewater infrastructure in the settlement is currently operating at capacity and as such the applicant is prohibited to connecting to the network.
- 11.6.2. Under the current application it is proposed to demolish an existing modest sized dwelling and to provide a large six-bedroom dwelling with five bathrooms. As in the case of the previous application, the percolation test carried out yielded a relatively high T value whereby the site can be considered borderline for the accommodation of a proprietary wastewater treatment system. The high T value is attributed to the compact nature of the subsoils.

11.6.3. The applicant in this instance proposes to provide a biological aerated filter secondary packaged wastewater treatment system. The polishing filter with an underlying soil polishing filter. The polishing filters will incorporate percolation values in the range of 3 to 20 and therefore will incorporate sufficient percolation characteristics to cater for higher hydraulic loads. On this basis and on the basis of the figures presented in the site suitability assessment report, I am satisfied that a polishing filter of 20 square metres is sufficient to cater for the hydraulic loading associated with the larger dwellinghouse and can adequately attenuate effluent to ensure that it is adequately treated and disposed of on site. The provision of such an engineering solution will in my view adequately accommodate and treat effluent from such a large dwelling. I further note that there are no drains or small streams in the vicinity of the percolation area which could be potentially polluted. The trial hole excavated on site according to Section 3.2 of the site's suitability report indicated that no water table was encountered during the excavation. Having regard to the soil and subsoil depth, together with the incorporation of an engineered polishing filter, I am satisfied that any discharge to groundwater would be adequately treated and attenuated upon reaching the groundwater level.

11.6.4. I noted the case of the previous application refused by An Bord Pleanála that it was proposed to incorporate a similar type proprietary wastewater treatment to cater for the proposed enlarged dwelling. In relation to the previous application, I note that the Board did not raise any concerns regarding the nature of treatment to be incorporated into the proprietary wastewater treatment system notwithstanding the fact that it was raised as an issue in the grounds of appeal. On this basis I consider that the Board can reach a similar conclusion that the proposed onsite wastewater treatment arrangements would not give rise to either surface water or groundwater pollution in the vicinity of the site.

11.6.5. **Appropriate Assessment Screening**

11.6.6. Two Natura 2000 sites are located approximately 120 metres to the south-west of the subject site at Lough Swilly. Lough Swilly SAC (Site Code: 002287) and Lough Swilly SPA (Site Code: 004075) share a common boundary along the coastline to the south-east of the subject site.

11.6.7. The qualifying interests associated with Lough Swilly SAC include:

- *Estuaries.*
- *Coastal lagoons.*
- *Atlantic salt meadows.*
- *Molinia meadows on calcareous peaty or clayey – silt – laden soils.*
- *Old sessile oakwoods with ilex and blechnum in the British Isles.*
- *Otter.*

Lough Swilly SPA incorporates 22 bird species which are qualifying interests associated with the Natura 2000 sites. These include:

- *The Great Crested Grebe.*
- *The Grey Heron.*
- *Whopper Swan.*
- *Greylag Goose.*
- *Shelduck.*
- *Widgeon.*
- *Teal.*
- *Mallard.*
- *Shoveler.*
- *Scaup.*
- *Goldeneye.*
- *Red Breasted Merganser.*
- *Coot.*
- *Oystercatcher.*
- *Knot.*
- *Dunlin.*
- *Curlew.*
- *Redshank.Greenshank.*

- *Black Headed Gull.*
- *Common Gull.*
- *Sandwich Tern.*
- *Common Tern.*
- *Greenland Whitefronted Goose.*
- *Wetland and water birds.*

11.6.8. My site inspection indicated that there were no rivers, streams or drainage ditches in the vicinity of the site which drain into Lough Swilly. I would therefore conclude that there is no surface water connection between the subject site and the Natura 2000 sites in question.

11.6.9. With regard to the Lough Swilly SAC, I note that five out of the six qualifying interests associated with the SAC specifically relates to habitats. The proposed development, located outside the boundary of the SAC, will not result in the reduction or fragmentation of those designated habitats. The final qualifying interests relates to the otter. The population of otters could be adversely affected with any deterioration in water quality associated with the SAC. The only potential conduit between the subject site and the SAC in question relates to groundwater. However, I am satisfied having regard to my assessment above, that the subject site is suitable to accommodate a tertiary wastewater treatment plant and the installation of such a treatment plant will not result in any groundwater contamination. Therefore, I consider that there is no potential for the proposed development to impact on the Lough Swilly SAC.

11.6.10. The replacement of an existing house with a new house will likewise have no impact on any of the species of bird associated with the Lough Swilly SPA.

11.6.11. In conclusion therefore 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, it is concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002287 or European Site No. 004075 or any other European site, in view of the site's

conservation objectives and appropriate assessment (and the submission of an NIS) is therefore not required.

12.0 Conclusions and Recommendation

Arising from my assessment above, I consider that the applicant in relocating the dwelling to a more westerly and southerly position on site has successfully overcome any adverse impacts on adjoining residential amenity of the dwelling to the east and I therefore recommend that planning permission be granted for the proposed development.

13.0 Decision

Grant planning permission for the proposed development based on the reasons and considerations set out below.

14.0 Reasons and Considerations

Having regard to the proposed development located within the settlement framework boundary of the settlement of Fahan, it is considered that the proposed development subject to conditions set out below would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed

particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all external finishes to the proposed dwelling shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. Drainage arrangements including the attenuation of surface waters shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health.

4. The finished floor level of the dwellinghouse shall be 18.33 metres above Ordnance Datum as indicated on the site layout plan submitted to the planning authority on 13th day of January, 2021.

Reason: In the interest of the visual amenities of the area and the protection of adjoining residential amenity.

5. Details of the proposed entrance to the dwelling including measures to prevent the discharge of surface water onto the public road shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: To prevent flooding.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All

existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

7. The proposed garage shall be used solely for domestic purposes only and shall be ancillary to the main dwellinghouse. It shall not be used for any commercial business or sold or let as a separate residential unit without the benefit of a separate grant of planning permission.

Reason: To cater for orderly development.

8. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) Contoured drawings to scale of not less than 1:500 showing a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal;
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment;
- (c) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established;
- (d) A timescale for implementation which shall provide for the planting of to be completed before the dwelling/building is first made available for occupation;

Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the

planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

9. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 13th day of January, 2021 and in accordance with the requirements of the document entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (PE less than or equal to 10) Environmental Protection Agency 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.
- (b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

Paul Caprani,
Senior Planning Inspector.

5th July, 2021.