



An  
Bord  
Pleanála

# Inspector's Report

## ABP-310451-21

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<b>Development</b>	Construction of a dwelling house and domestic shed.
<b>Location</b>	Drumreen, Carrigart, Letterkenny, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2051363
<b>Applicants</b>	Pamela Duffy & Kristofer McFadden
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Róise Ní Laifeartaigh
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> September 2021
<b>Inspector</b>	Máire Daly

## 1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 1.15 ha and is located in the townland of Drumreen on the western side of the L-5332-2, c.1.8km south of Carrigart which is a rural town in north County Donegal.
- 1.2. The site is accessed via a winding access lane which falls by approx. c. 23m towards the east from a level of c. 55.99m at public road to a level of c. 32.60m at the location where the dwelling house is proposed. A small block livestock shed is located at the foot of the existing winding access road, nestled into a coppice of deciduous trees, with the access gate to the main area of the site located to its immediate south. The site is comprised of a large agricultural field currently in grassland/grazing use which continues to slope downward towards its western boundary to a level of c.33m, where an existing deciduous hedgerow and treeline exist. Beyond this treeline a narrow stream flows in a northerly direction downslope towards Carrigart and eventually into the estuary at Mulroy /Broad Water Bay. The agricultural field for the main part appears to be well drained and this is no doubt assisted by its sloping nature. Localised patches of rush were visible throughout the field, but these were not extensive.
- 1.3. An existing single storey dwelling house is located on the adjoining site to the south at a level of c. 44.69m. An agricultural shed is located on higher ground in the adjoining field to the east, set into the hill slope, with a single storey dwelling house located upslope to its north. This larger agricultural shed and dwelling house have a separate access off the local road, which in turn becomes a grassy botharín that connects to the proposed site's access road.
- 1.4. The immediate area comprises agricultural fields bordered by hedgerows and trees, combined with rural housing and some agricultural buildings. Ribbon development is evident along the L-5332-2 both to the north and south of the site. Given the elevated nature of the site extensive views of Sheephaven Bay to the north west and Broadwater/Mulroy Bay to the north are visible on clear days.

## 2.0 Proposed Development

2.1. The proposed development would comprise the following:

- Construction of a four-bedroom detached part storey and a half, part two-storey dwelling house with a stated gross floor area (GFA) of 211.8sq.m and ridge height of c.7.32 metres;
- Detached domestic shed with stated floor area of 35sq.m and roof height c.5.2 metres.
- Installation of a septic tank and percolation area;
- Vehicular access onto a local road;
- Connection to public mains water supply;
- All associated groundworks and landscaping.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to 16 conditions, including the following:

Condition No.2 – occupancy clause;

Condition No.3 – provision of visibility splays of 50m at the entrance.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

3.2.2. The first report of the Planning Officer (dated November 2020) noted the following:

- The principle of a dwelling on the subject site has been previously confirmed by permission granted under 07/51062.
- Bona-fides provided by Deputy Joe McHugh (TD) is noted. Policy RH-P-4 has been confirmed.

- The proposed wastewater treatment on site (septic tank and percolation area) was considered acceptable.
- The access onto the public road forms unacceptably acute angle with no dwell area. It is noted that approval ref. 07/51062 had a condition attached that an alternative access be used and not the proposed more acute access from the northern direction.
- Whilst the 07/51062 application showed the access angle at 90° to the public road, the subject application indicates a very acute angle.
- Further information was therefore required in relation to the following:
  1. Revised site layout plan indicating an access onto the public road at a 90° angle.
  2. Longitudinal section through centreline of access road indicating existing and proposed levels to provide access in compliance with Donegal CDP Part B: Appendix 3 Table 2 – with said gradient to provide for a dwell area from the edge of the public road of 5m with a gradient of 4% and a 10% gradient thereafter.
  3. Comprehensive proposal indicating how vision lines of 120m are to be provided to the nearside road edge in each direction at a point 2.4m back from the road edge.

3.2.3. On receipt of further information, the Planning Officer's second report (dated March 2021) noted the following:

- The response to Item no. 2 above was not considered sufficient. The area planner noted that while the revised road gradient shown was considered acceptable, no provision was made for detailing of the required verge to either side of the road. Neither had provision been made for landscaping and engineering of same to ensure that the road was stable and that the angle of repose to either side is adequate and landscaped.

3.2.4. The applicant in response to the above, submitted further information on 10<sup>th</sup> March 2021. The area planner determined that the following matters comprised significant further information (Article 35):

- Revised route of access road; and
- Impact of same on access road to adjacent dwelling to the south. It was noted that the route of the road will involve modification of the access to a third-party dwelling.

The Board should note that as part of the further information received a Traffic Survey Report was also submitted.

3.2.5. Following compliance with the above notifications the Planning Officer completed a third and final report dated May 2021. They noted the submitted speed survey and considered the proposed vision lines acceptable. They noted the third-party submission received at this stage and addressed the issues raised. Following assessment of the revised proposal they recommended a grant of permission.

### 3.2.6. **Other Technical Reports**

- **Donegal County Council – Roads Department** - Area Planner states that no response received in response to further information/significant further information received.

However, I note that a response form the Acting Executive Engineer was received on 12th April 2021 which raised no significant concerns and recommended that drainage be put in place to drain water that may flow in to site from the local road.

### 3.3. **Prescribed Bodies**

- Irish Water – No response.
- Development Applications Unit, Department of Housing, Local Government and Heritage - No response.

### 3.4. **Third Party Observations**

3.4.1. One third party appeal was received from Róise Ní Laifeartaigh on 28<sup>th</sup> April 2021. This submission was received in response to the Significant Further Information, including revised plans which were submitted to the Planning Authority on 16<sup>th</sup>

February 2021 & 10<sup>th</sup> March 2021. The main concerns raised can be summarised as follows:

- Visibility splays are not acceptable.
- Speed surveys submitted are out of date (2014) and are not appropriate as the population of the area and road users increases in the summer months.
- Stopping distance was not considered and concerns regarding liability in case of accidents.

## 4.0 Planning History

### 4.1. Subject site:

- Donegal County Council (DCC) Ref. 06/50616 – Permission granted in August 2006 for change of house type with septic tank previously granted under planning ref. 04/7441.
- DCC Ref. 04/7441 – Permission granted in July 2004 for dwelling house and septic tank.
- DCC Ref. 037503 – Permission refused in August 2003 for dwelling house and septic tank for the following reasons:
  1. *Having regard to existing and permitted development in the vicinity of the site, which is serviced by on-site sewage treatment systems and deep bore wells, it is considered that the proposed development would be prejudicial to public health in that it would constitute an excessive density of septic tanks within a limited area. This density of development would result in too high a loading rate for the locality giving rise to potential nuisance problems. Accordingly to permit development would be contrary to the proper planning and sustainable development of the area.*
  2. *The proposed development would be premature by reference to the existing deficiencies in public water supply in the area and the period within which the constraint involved may reasonably be expected to cease. Accordingly to permit development would be contrary to the proper planning and sustainable development of the area.*

- DCC Ref. 017272 – Permission refused in July 2021 for demolition of existing buildings and erection of 3 no. holiday homes with common wastewater treatment system. 2 no. refusal reason related to impact on landscape.

4.2. Other adjacent applications which also included part of the site;

- DCC Ref. 0751062 – Permission granted in February 2008 for dwelling house, domestic garage and septic tank.

4.3. Nearby site to the north:

- ABP Ref. 300947-18 – Permission refused in August 2018 for alterations and extension to existing dilapidated dwelling and installation of wastewater treatment system. Reasons for refusal related to:

1. *Impact on landscape – by virtue of its two storey design the proposed development would be contrary to Policy RH-P-2 of the Donegal County Development Plan 2018 to 2024. It was also considered that the proposed development in conjunction with other dwellings in the vicinity would exacerbate the suburban pattern of development in this rural area and would give rise to the demand for uneconomic provision of infrastructure in the hinterland of Carrigart Village which would be contrary to Rural Housing Objective RH-0-4.*
2. *Having regard to the sloping nature of the land, the soil conditions and the significant level of site works proposed to support the percolation area, in addition to the proximity to a stream connected to Sheephaven Bay Special Area of Conservation, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the effluent from the development can be satisfactorily treated or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system and accordingly, the Board is not satisfied that the proposed development, either individually or in combination with other plans and projects, would not be likely to have a significant effect on this European site, in view of the site's conservation objectives. The proposed development would, therefore, be prejudicial to public health, would pose an unacceptable risk of environmental pollution and would be contrary to the proper planning and sustainable development of the area.*

## 5.0 Policy Context

### 5.1. Development Plan

### 5.2. National Policy and Guidance

#### National Planning Framework – Project Ireland 2040

5.2.1. In planning for the development of the countryside, the NPF acknowledges that there is a need to differentiate between demand for housing in areas under urban influence and elsewhere, as per the following objective:

5.2.2. National Policy Objective 19: 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.

#### Sustainable Rural Housing Guidelines for Planning Authorities, 2005

5.2.3. The Guidelines provide criteria for managing rural housing requirements, whilst achieving sustainable development. Planning Authorities are recommended to identify and broadly locate rural area typologies that are characterised as being under strong urban influence, stronger rural areas, structurally weak areas, or made up of clustered settlement patterns. The Guidelines outline how rural-generated housing need to reside in these areas should be defined in the Development Plan and examples of categories of persons that may be used to define same.



5.2.4. The appeal site is located in a 'structurally-weak rural area', as set out under Section 5.3 below. Appendix 3 to the Guidelines outlines that the key Development Plan objective in relation to structurally-weak rural areas should be '*to accommodate any demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.*'

5.2.5. Appendix 4 of these guidelines discusses Ribbon Development and states that areas characterised by ribbon development will in most cases be located on the edges of cities and towns and will exhibit characteristics such as a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage.

EPA Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$  (2021))

5.2.6. This code of practice provides guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses (PE $\leq$ 10).

### 5.3. Development Plan

5.3.1. The policies and objectives of the Donegal County Development Plan 2018-2024 are relevant. The site is located in a rural area outside of any designated settlement boundary.

5.3.2. Map 6.2.1 of the Plan identifies the appeal site area as being within a 'structurally-weak rural area'. Policy RH-P-4 of the Plan specifically outlines that applications for rural housing in structurally-weak rural areas need to comply with Policies RH-P-1 and RH-P-2 of the Plan, which provide guidance for rural housing, with particular attention to design, integration of proposals into the landscape and the environment, development parameters, suburbanisation and the erosion of the rural character of an area. Policy RH-P-2 states that proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. The extent of excavation that may be considered will depend upon the circumstances of the case, including the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings. Policy RH-P-2 also states

that a proposed dwelling shall not constitute haphazard development or create or add to ribbon development.

- 5.3.3. Objective RH-O-4 seeks to protect rural areas immediately outside towns from intensive levels of residential development and thus safeguard the potential for incremental growth of the towns and their potential beyond the plan period; to utilise existing physical and social infrastructure; and to avoid demand for the uneconomic provision of new infrastructure.
- 5.3.4. Objective RH-O-5 of the Plan aims to promote the siting and design of rural housing with particular regard to the Landscape Classifications illustrated on Map 7.1.1 of the Plan. The subject site is within designation MSA (moderate scenic amenity), with views west over an area designated as HSA (high scenic amenity). 'Building a House in Rural Donegal: A Location Siting and Design Guide' forms Appendix 4 to the Plan and this includes technical and development management guidance for rural housing.
- 5.3.5. Definitions – page 123 – Ribbon Development – states that the Planning Authority shall take a balanced and reasonable view of the interpretation of the criteria listed within the definition taking account of local circumstances, the context of the site, including the planning history of the area and development pressures.
- 5.3.6. Policy WES-P-11 of the Plan requires applications for single dwellings in un-sewered areas to include a site suitability assessment for disposal of wastewater on-site and details of the proposed wastewater treatment system, in compliance with the EPA Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses.
- 5.3.7. Policy T-P-15: requires all development proposals comply with the Development and Technical Standards set out in Appendix 3 to promote road safety.
- 5.3.8. Policy NH-P-1: states that it is a policy of the Council to ensure that development proposals do not damage or destroy any sites of international or national importance, designated for their wildlife/habitat significance in accordance with European and National legislation including: SACs, Special SPAs, NHAs, Ramsar Sites and Statutory Nature Reserves.

- 5.3.9. Policy NH-P-7: states that within areas of 'High Scenic Amenity' (HSA) and 'Moderate Scenic Amenity' (MSA) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the 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.
- 5.3.10. Policy NH-P-9: states that it is the policy of the Council to manage the local landscape and natural environment, including the seascape, by ensuring any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of the area.
- 5.3.11. Policy NH-P-13: states that it is a policy of the Council to protect, conserve and manage landscapes having regard to the nature of the proposed development and the degree to which it can be accommodated into the receiving landscape. In this regard the proposal must be considered in the context of the landscape classifications, and views and prospects contained within this Plan and as illustrated on Map 7.1.1: 'Scenic Amenity'.
- 5.3.12. The subject site is located within a Gaeltacht area and therefore Policy CCG-P-18 applies which states that: It is a policy of the Council to support the linguistic base of the Gaeltacht through the facilitation of sustainable rural housing for native Irish speakers and the application of Language Impact Assessments for multiple residential developments in accordance with the housing policies of this Plan.

#### **5.4. Natural Heritage Designations**

- 5.4.1. The site is not located within or adjacent to a Natura 2000 site. There are a number of Natura 2000 sites in this area of Donegal. Sheephaven SAC (site code:001190) is c.1.5km west and c.2.2km north of the site. Mulroy Bay SAC (002159) is c.2.9km to the northeast of the site. Cloghernagore Bog and Glenveagh National Park SAC (002047) is approx. 3km south/southwest of the site.

#### **5.5. EIA Screening**

- 5.5.1. The subject appeal does not relate to a class of development which requires to mandatory EIA.

- 5.5.2. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.
- 5.5.3. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.
- 5.5.4. Having regard to: (a) the nature and scale of the development, and (b) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended), It is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. A third-party appeal against the decision of the planning authority to grant planning permission was submitted by Róise Ní Laifeartaigh, who is the adjoining landowner. The issues raised in the appeal are similar to those submitted to the planning authority at application stage and can be summarised as follows:
- Condition no. 3 of the approved permission states that 50m visibility splays from the entrance shall be provided in each direction – the appellants states

that she is the registered owner of the lands that run shoulder to shoulder with the applicant's father's land at the proposed vehicular entrance and that she has not entered into any agreement with the applicant regarding the provision of 'permanent visibility splays'. As part of the validation process should DCC not have ensured consent from the adjoining landowner for the works was in place?

- Traffic and Speed Survey – The survey suggests that the average speed of traffic on this road is 32 miles per hour. The appellant contends this fact and also does not consider a 7-year-old survey is adequate.
- There has been a significant increase in the number of holiday homes in the area which adds to the traffic levels on the road, and no effort has been made by DCC to protect the rural character of the area or the Irish language within this Gaeltacht area.
- Given the Covid-19 pandemic staycations are becoming more popular and therefore further increased traffic is expected on this road. In addition, it is used by locals, walkers and tourists and no provision of a layby has been provided.
- The appellant draws the Board's attention to previous applications in the vicinity which have been refused including ABP 300947. The current application is in fact located closer to the existing burn/stream which connects to Sheephaven Bay SAC.
- In addition, DCC ref. 15/51679 which is located nearby was refused by DCC and the same rationale is true for the current application (erosion of rural character and expansion of suburban pattern of development) therefore the proposal should be refused.
- Environmental and ecological impact on local watercourse – it has been a trend of DCC of late to advise against development on lands adjoining the burn/stream to be developed for fear of environmental impacts as a result of septic tanks and wastewater systems and subsequent impact on the downstream Sheephaven Bay SAC. No EHO report has been submitted in response to the current application.

- The proposed development by virtue of its location would intrude upon the long views to Sheephaven Bay.
- The development would be contrary to Council policy which states that 'proposals for development involving extensive or significant excavation or infilling will not normally be favorably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development'. The area planner noted in their initial report on the subject of access that the proposed 'access is wholly unsuitable'.
- The area was known previously as a refuge for the corncrake and the cuckoo. Further development in this area would jeopardise any chance for these birds to return and flourish.
- Records show that numerous applications have been made for housing developments in Drumreen by the Duffy family but to date none of the Duffy family reside in Drumreen. However, sites have been sold and developments have taken place and are now being occupied as holiday homes. In support of this numerous planning application reference numbers have been submitted as evidence by the appellant.

## 6.2. Applicant Response

6.2.1. A response to the third-party appeal was received from the applicant on 8th July 2021. This can be summarised as follows:

- The proposal uses an existing and planning approved access entrance.
- The applicants seek planning permission for a permanent dwelling house, Pamela Duffy's parents live nearby, and she is also a native Irish speaker.
- The applicant highlights previous issues regarding a right of way which accesses the site which also is located through part of the appellant's lands. A solicitor's letter and land registry map illustrating same have also been submitted.

In response to the appellant's concerns regarding vision splays –

- The vision lines provided at 50m have been determined in accordance with the CDP and the traffic survey.
- The existing entrance is already in use with the benefit of a previous planning permission, thus reducing the requirement for a new entrance onto the road.
- The appellant's reference to a Mr. Hession living in the adjoining property is incorrect. This man lives at a different location in the vicinity.
- The applicants state that the existing entrance off the public road will be improved which will jointly benefit the existing McPharland house (adjoining house to the south) as per condition no.3 and no.4 of the Council's decision to grant permission.

In response to the concerns raised regarding the Traffic and Speed Survey –

- The applicants state that the traffic survey was conducted by a professional agent using radar vehicle speed equipment – vehicular numbers recorded would have been much lower had the survey been carried out during the Covid 19 pandemic from early 2020 to late spring 2021.
- There has been a reduction in the use of some houses along same road due to bank takeovers, long term absences and mica defects.
- The traffic survey was in accordance with standard protocol and was then compared to guidance in Part B of Appendix 3 of the CDP – where traffic speeds of less than 42km are recorded vision lines of 50m are required and have been provided.
- This is a country road where the current road alignment slows traffic. If necessary the applicants are willing to commission a further professional traffic survey.

In response to the appellant's comments regarding supporting cases the applicants state –

- Rural dwelling house planning applications should be assessed on their own merits.
- The Mr. Patrick Black appeal refusal is not comparable precedent nor is the PA's refusal of Denise Doherty's application. Both these previous proposals

were deemed to be prominent and injurious to the rural character and Mr Black's also had site assessment test issues.

- The proposed dwelling house is out of the public view and has ample room to accommodate all EPA site assessment test findings.

Local water course concerns response –

- There is no standard CDP setback distance for new dwelling houses from watercourses. The minimum distances outlined in the EPA CoP (10m) has been adhered to, with the actual distance proposed 41.399m between the burn and the percolation area.
- The submitted site assessment demonstrates the site's suitability for a septic tank, with no impacts expected on the watercourse or groundwater.

Response to concerns regarding impacts on rural character:

- The proposed development will read as part of an existing grouping of linear development which is below road level, with intervening mature vegetation.
- The burnside/stream setting is to remain unchanged.

Response to concerns regarding excavation and infilling –

- All single house developments in the countryside require a certain level of cut and fill. The proposed cut and fill will be mainly contained to the area of the existing access track and entrance.
- The proposed house's siting below road level will mean that any earth works will generally be out of public view.
- Filled area and cut embankments can be vegetated and landscaped, as per any landscape plan agreed.
- It is noted that a sycamore on site may require felling, this is not a native species and the applicant proposes to replace same with native species.

Response to concerns regarding Corncrake and Cuckoo -

- The site is not within a designated SAC, SPA or NHA and there have been no previous sightings of corncrake on the lands (applicant has attached NPWS



survey of 2018 in relation to corncrake demonstrating that the area is not known to support this species).

- Cuckoos are not endangered and there have been no known Cuckoo sightings on site.

Response to concerns raised regarding speculative development –

- All applications quoted by the appellant are from 11 to 24 years ago and there have been no recent applications on the site.
- The Board should note that for many of these applications a more relaxed consent system existed under previous CDPS. Still, many of these applications were refused or withdrawn.
- The applicant's brother did previously have permission on the subject site but was unable to construct the permitted dwelling house due to financial constraints.
- There is currently no existing permission on the subject site though the principle of development on the site is noted through previous permissions granted.
- The remains of the applicant's grandmother's original cottage, where the applicant's father was raised is located on the site. The applicant now seeks to build her own house for her permanent use.

Local Housing Supply –

- A letter has been submitted by the applicants from a local estate agent which outlines the demand for local housing in the area and the shortage of same, part of this has been caused by the recent discovery of mica defects.

Gaeltacht area -

- The application is in a Gaeltacht area and the applicant (Pamela Duffy) is a native Irish Speaker. Policy CCG-P-18 of the CDP seeks to strengthen and preserve the language in the locality.

Compliance with CDP policy –

- The applicants have demonstrated a housing need and the proposal complies with Policy RH-P-4, RH-P-1 and RH-P-4 of the CDP. Pamela Duffy is a local substitute teacher and is an essential worker under housing policy.
- The proposed development can assimilate into the designated 'Moderate Scenic Area' landscape and therefore accords with CDP policy.
- A genuine local and rural housing need has been demonstrated.

The applicants have also submitted a solicitor's letter confirming prescriptive rights over the right of way access to the development site and family farm lands.

### 6.3. Planning Authority Response

6.3.1. The Planning Authority response to the grounds of appeal can be summarised as follows:

- The majority of the matters raised in the appeal have been addressed in the three completed planning reports.
- Vision Splays – permanent visibility splays are already in place at the point of access onto the local road. The CDP permits accesses onto roads with reduced vision lines where an agent certifies the adequacy of vision lines available. The agent in this instance has certified the adequacy of the 50 metre vision lines. It is notable that permission was granted for the existing dwelling with vision lines of 70 meters, therefore it is reasonable to conclude that when vision lines of 70 meters are conditioned, they required that easements were in place to achieve 50 metre vision lines. If the vision lines cannot be achieved prior to commencement, then the development cannot proceed.
- The planning authority are satisfied with the traffic survey submitted and having assessed any increases in the number of developments along the road and also consulting with the area roads engineer, do not consider the design speed of the road to be greater than 42km/hr.
- The appellant refers to DCC ref. 17/51813 - in this case the application was refused on design grounds and public health grounds. In that instance the

ground was such that the iron pan element of ground conditions had to be broken up and a soil polishing filter imported. This is not the case in the subject application site as the in-situ soils are of superior quality. In addition, downgradient of the subject site there is no development, whereas in the case of the previous application there was. Current planning application is considered to be in compliance with the EPA CoP 2009.

- The appellant also refers to DCC ref. 15/51679 this application was refused on siting grounds alone given it added to a suburban pattern of development. No concerns were raised in this case in relation to appropriate assessment. The comparison is therefore not appropriate. AA screening of the current application has been carried out and the planning authority are satisfied that no significant impacts are likely.
- It is noted that the site enjoys a very considerable backdrop with a substantial agricultural shed on high grounds therefore no significant impacts in relation to scenic amenity within this moderate scenic amenity area are expected.
- It is accepted that cut and fill will be required on site to provide for the road, the PA have attached landscaping conditions to mitigate any impacts.
- The site is not within a SPA and no evidence of the area being within established Corncrake habitat has been submitted.
- The PA have assessed the bona fides submitted with the application and have deemed these to provide satisfactory evidence of the applicant's need for a dwelling. The site lies within a structurally weak rural area and therefore no evidence of established links to the area are required.

#### **6.4. Observations**

- None received.

#### **7.0 Assessment**

- 7.1. Having examined the application details and all other documentation on file, following an inspection of the site, and having regard to the relevant

local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Rural Housing Policy
- Ribbon and Backland Development
- Design and Visual Impacts
- Access and Traffic Safety
- Wastewater Treatment
- Other Matters
- Appropriate Assessment - Screening

## 7.2. Rural Housing Policy

- 7.2.1. Map 6.2.1 of the Donegal County Development Plan 2018-2024 (the operative CDP) identifies the appeal site as being within a 'structurally-weak rural area'. Policy RH-P-4 states the Council will consider proposals for new one-off housing within structurally weak areas from any prospective applicants with a need for a development house (urban or rural generated need) provided that they can demonstrate that they comply with other policies set out in the plan, in particular policies RH-P-1 and RH-P-2.
- 7.2.2. The third-party appellant has raised concerns in relation to the applicants' intentions to live in the area and has stated that they suspect that the proposal may constitute speculative development. The applicants in their response to the third-party appeal state that they intend to use the house as their permanent residence and are willing to accept an occupancy condition. I also note that as part of the applicants' response it is stated that Pamela Duffy is a native Irish speaker. Policy CCG-P-18 of the operative CDP seeks '*to support the Linguistic base of the Gaeltacht through the facilitation of sustainable rural housing for native Irish speakers*'. The subject site is located within a Gaeltacht area as defined in the operative CDP and therefore the applicant's case is supported by policy. I note however that no details of proof of same or indeed support to demonstrate that Ms. Duffy works locally as a substitute teacher have been submitted with the application. The planning authority have stated that they have assessed the bona-fides submitted with the planning application,

which I note includes a letter from TD Joe McHugh vouching for the applicants and their need for a house on the subject site. While I accept that the applicants may in general qualify for rural housing under the Policy RH-P-04 there are certain caveats within this policy which also need to be considered, in particular the need to also demonstrate compliance with Policies RH-P-1 and RH-P-2. In addition, and closely connected with these aforementioned policy requirements, Appendix 3 of the Rural Housing Guidelines 2005 outlines that the key Development Plan objective in relation to structurally-weak rural areas should be *'to accommodate any demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.'* These additional considerations are examined in detail in the sections that follow below.

- 7.2.3. Also, regarding national policy, I note that National Policy Objective 19 of the NPF states the following in relation to proposals for rural housing outside of areas under urban influence – *'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'*. Objective RH-O-4 of the operative CDP also emphasises this point. Therefore, it is evident that any proposals for future rural housing should consider any impacts that same may have on the viability of nearby smaller towns and rural settlements. The proposed site is located c. 1.8km south of the settlement boundary of Carrigart (Layer 3 Settlement as defined under Table 2A.3 of the operative CDP), in an area which has seen considerable pressure for rural housing in recent times. Notably the L-5332-2 local road, along which the entrance to the proposed site is located displays evidence of extensive linear development but also housing clusters and holiday home development e.g., the Atlantic Court development and Lenamore Cottages which are located c. 680m and 500m north of the site respectively. I would consider that the proposed development in conjunction with other dwellings in the vicinity would exacerbate the suburban pattern of development in this rural area and would give rise to the demand for uneconomic provision of infrastructure in the hinterland of Carrigart Village. The issue of this extensive linear development is examined further in the following section.

### 7.3. Ribbon and Backland Development – New Issue

7.3.1. Policy RH-P-1 of the operative CDP states that '*Proposals for individual dwellings shall be subject to the application of Best Practice in relation to the siting, location and design of rural housing as set out in Appendix 4 and shall comply with Policy RH-P-2*'. Policy RH-P-2 of the plan then provides for the following considerations stating '*In considering the acceptability of a proposal the Council will be guided by the following considerations:-*

- *A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in the rural area;*
- *A proposed dwelling shall not create or add to ribbon development (see definitions)....*

7.3.2. The planning authority have stated that compliance with Policy RH-P-4, with regard to housing need has been confirmed by virtue of the Bona Fides provided by Deputy Joe McHugh (TD), and that they are satisfied that the principle of a dwelling on the site has already been determined under DCC ref. 07/51062 and that any siting or design issues raised can be dealt with by way of condition. However, the planning authority have not stated how the applicant complies with Policy RH-P-2. It is also important to note at this juncture that the planning officer's reasoning in support of the proposal at this location, as outlined in their initial report (November 2020), relies on the fact that the principle of a dwelling on the site was previously established under a planning application granted in 2008 (DCC ref. 07/51062). It is worth noting however that at that time (2008) there was significantly less development along this stretch of road, with the majority of houses (approx. 5) having received permission after 2011, thus exacerbating the ribbon development along this local road. Therefore, I do not consider the planning authority's reasoning appropriate in this case.

7.3.3. As I have already highlighted above the emergent development pattern along the local road serving the site is characteristic of ribbon development. The applicants in response to the concerns raised regarding the impact on 'rural character' state that the proposal, if permitted, would read as a grouping with the existing linear development pattern (which includes the remains of an old cottage and two smaller existing sheds) which is below road level and has intervening vegetation between

sheds and houses. In order to examine the proposal's impact on the surrounding rural area and in particular on the pattern of development in the area, it is first necessary to determine if the proposal would constitute ribbon development. The planning authority set out their definition of 'ribbon development' on page 123 of the operative CDP, which defines it as follows: '*In general 5 houses on any one side of 250 metres road frontage*'. It then goes on to state '*Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:*

- *The type of rural area and circumstances of the applicant.*
- *The degree to which the proposal might be considered infill development.*
- *The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.*
- *The existence of physical and geographical breaks, inclusive of topographical undulations, which may act as a means of extending roadside development in appropriate cases.*
- *The degree to which the proposal would form a small cluster with a number of houses or other buildings with adjoining curtilages, this may incorporate backland sites in appropriate circumstances.'*

7.3.4. The current proposal is located in a backland location, to the west (rear) of two established houses and an agricultural shed, with the proposed entrance to be shared with one of these existing dwelling (to the south), subject to modifications (see Section 7.5 below for further details). As already outlined above I would not consider that the proposal would add appropriately to the existing pattern of development in the general vicinity, thus it would not be considered appropriate backland development.

7.3.5. Appendix 4 of the Sustainable Rural Housing Guidelines (2005) expands on the definition of 'ribbon development' and states that, '*whether a given proposal will exacerbate such ribbon development or could be considered will depend on:*

- *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 existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development’.*

7.3.6. Appendix 4 requires planning authorities to arrive at a balanced and reasonable view in the interpretation of the above criteria. The above considerations are also reflected within the definition of ribbon development as provided for on page 123 of the operative CDP.

7.3.7. When considering the criteria listed in Appendix 4 (outlined above) I note the following: As outlined under Section 7.2 above, the site is located within a structurally weak area and while there is no requirement to submit evidence of a rural housing need within this area, the applicant has provided some limited information which would suggest that they have a need to live locally. In the case of the current proposal, I would not consider that it constitutes infill development, given that it will, due to its backland location, extend the pattern of development in this area to the west and downhill, thus broadening the footprint of development in the area while also adding to existing ribbon development along the western side of the local road.

7.3.8. On site visit I noted that the local road is under significant pressure from one-off housing. I noted at least 7 dwelling houses accessing this local road from both sides within the immediate vicinity of the site (250m stretch of road). Appendix 4 of the 2005 Rural Housing Guidelines provides an example of ribbon development where 5 or more houses exist on any one side of a given 250 metres of road frontage. In the case of the current proposal at least 5 houses exist along the western side of this local road. The subject site extends to the western side of the L-5332-2 and therefore technically has road frontage of 30m, though I do note that the house itself will be located in a backland location. The proposal therefore would constitute the 6<sup>th</sup> house on the western side of this local road within a stretch of 250m and therefore would in my opinion constitute ribbon development. Given the significant pressure already evident along this road, with 16 dwelling houses directly accessing the L-5332-2 from either side of the road over a 700 metre stretch within the immediate vicinity and a further 4 no. houses accessing the road off two side access roads, I would have serious concerns in relation to the proposed development’s exacerbation of the current trend of ribbon development.



- 7.3.9. The operative CDP presents guidance on the location of new developments in rural areas under Section 6.3.3 (page 119) and states '*On occasions it may not be the impact of the new dwelling by itself which affects the rural character, rather it is when assessed cumulatively with other existing and approved buildings in the vicinity that it could be detrimental to the rural character of that area. This may be by creating or extending a suburban pattern of development or creating or extending unacceptable ribbon development*'.
- 7.3.10. Therefore, notwithstanding the location of the site in a structurally weak rural area, and the proposed location of the dwelling in a backland site, below road level and with a degree of vegetative screening, I consider that the proposed development would represent inappropriate backland development which would in combination with extant development in the area compound the existing pattern of haphazard development at this location and would serve to further erode the rural character of this rural and contribute to the build-up of ribbon development. The proposed development would therefore be contrary to Policy RH-P-2 of the operative CDP and the Sustainable Rural Housing Guidelines. The proposed development should therefore be refused. I acknowledge however that this is a new issue and the Board may wish to seek the views of the parties.

#### **7.4. Design and Visual Impact**

- 7.4.1. The proposed dwelling house is to have an overall floor area of 211.8sq.m. The house would be sited approximately 80m from the public road (to the front of the site). The design is to comprise a two-storey front (west facing) projecting element of total ridge height 7.32m with the remainder of the dwelling house of a storey and a half design. A part natural stone finish is proposed on the southern front facing projecting element with a slender 3-metre-high window. The remainder of the dwelling is to be completed in a wet dash rendered finish, apart from the rear porch (east facing) which also has a proposed stone finish. The ground floor front elevation is to have a bay type window with a flat roof 'dark grey troal' finish. A proposed single storey garage with a ridge height of c.5.2m and floor area 35sqm is to be located to the north east of the dwelling house. The proposed dwelling would not be highly visible from the local road (L-5332-2) which runs along the east of the site given that the position of the proposed dwelling on site would be located approx. 23 metres below the level of the public road at a FFL of 32.6m. The proposed dwelling however

would be visible from Regional Road (R245) which runs c. 1.1km to south, albeit against a backdrop of existing vegetation and the rising elevation of the hill.

7.4.2. The site is located within an 'Area of Moderate Scenic Amenity (MSA)' as defined under Map 7.1.1 Scenic Amenity under the operative CDP. The Development Plan states that these areas have the capacity to absorb additional development that is suitably located, sited and designed subject to compliance with all other objectives and policies of the Plan. Policies RH-P-2 and RH-P-9 are clear on the importance of siting and design in considering new rural dwellings and the Development Plan states that new rural dwellings should be designed in accordance with the principles set out in Appendix 4 of the County Development Plan, entitled 'Building a House in Rural Donegal – A Location, Siting and Design Guide'. Where visible from the regional and local road network and the immediate lands, the house would be viewed from the west against a backdrop of rising lands, hedgerows and trees, agricultural buildings and neighbouring rural houses. When viewed from the east, the site as discussed falls away significantly (23m drop) from the public road to the west and would be screened by existing and additional proposed vegetation to the site boundaries. Policy RH-P-2 of the operative CDP states that new rural dwellings should demonstrate that they can integrate successfully into the landscape, it further goes on to state that proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. While I acknowledge that a significant amount of cut and fill will be required as part of the proposal (see Section 7.5 below for further details) given the location of the site set against the backdrop of rising land, strictly speaking I consider that the MSA is capable of absorbing this development. In addition, I note that there is currently an existing roadway, albeit in a poor state of repair accessing the site, and therefore the proposal will not necessitate additional adverse scarring of the landscape to create access to the site but merely an upgrade of the existing roadway with some gradient adjustments. The site is not visible from any protected views, prospects or features of interest identified in the operative CDP. While I consider that the proposed design and site layout arrangements would be in accordance with the provisions set out within Appendix 4 to the Development Plan, relating to the location, siting and design guidance for 'Building a House in Rural

Donegal', I do still have reservations regarding the impact on the wider rural area, in particular as a result of the expansion of the pattern of ribbon development in the area and the further erosion of the rural character of the area (see Section 7.3 above).

- 7.4.3. In conclusion however, I consider that the proposal would not be described as visually obtrusive to the extent as to warrant a reason for refusal from a siting, design or visual impact aspect and in my opinion would be capable of being absorbed within this 'Area of Moderate Scenic Amenity'.

## **7.5. Access and Traffic Safety**

- 7.5.1. The applicant proposes to access the site via an existing entrance which serves the adjoining dwelling house to the south of the site and the agricultural buildings and lands located on the subject site. This existing access road winds downward from the public road level of 55.87m to c. 38.00m at the entrance gate to the agricultural field (main site area), and therefore has a steep gradient. The access road to the existing dwelling to the north of the site has a gradient of c. 14.5%. The planning authority raised concerns regarding the gradient of the proposed access road and requested revised plans, including a longitudinal section through the centreline of the access road to indicate the existing and proposed levels and show compliance with the requirements of the operative CDP. In response to this the applicants submitted a revised site layout plan and longitudinal section showing the gradient reduced to a 1:10 gradient. In order to achieve this the applicants revised the alignment of the access road. In addition to this the applicants also realigned the access road at the entrance to provide for a 90° angle with the public road. While I acknowledge that a significant amount of cut and fill will be required to achieve the proposed gradients/levels along the access road and indeed at the location of the proposed dwelling and garage, I consider that these works are achievable on site and also consider (outlined under Section 7.4) that with appropriate landscaping the works will not unduly have any significant visual impacts on the landscape within this MSA.
- 7.5.2. As part of the response to further information a Traffic Survey Report was submitted which assessed the average speed of vehicles using the L-5332-2 local road to the front (east) of the appeal site. The traffic surveys conducted were carried out in April 2014 and I note the appellant's concerns regarding same and the accuracy of these

dated results. In response to this concern the applicants state that had a more recent survey been conducted in early 2020 to late 2021, the traffic volumes on the local road would have actually been much lower given the Covid 19 pandemic. Speeds measured in a range between 29km/hr to 42km/hr were recorded, through use of a handheld radar speed metre at a farm entrance point adjacent to the subject site.

7.5.3. Table 3 to Appendix 3 of the operative CDP outlines that proposals for single accesses onto local roads, such as that fronting the appeal site where an 80km/hr speed limit applies, require 120m to 160m vision lines in both directions from a point 2.4m setback from the roadside. The Plan also states that deviation from these requirements may be considered upon certification by the applicant's designer. Vision lines from the entrance cannot meet the 90m to 120m required in the Development Plan. The site layout plan drawing (DRG No. 2120/2) submitted with the planning application illustrates that 50m visibility would be achievable in both directions at the entrance to the site off the local road. The L-5332-2 is a narrow single carriage road where the horizontal and vertical alignment does not lend to high speeds. Having visited the site and noted traffic speeds achievable, the capacity of the road and the results of traffic speed survey undertaken, I am satisfied that the proposed sightlines, though deviating from Development Plan standard requirements, would be appropriate.

7.5.4. I also consider that the traffic movements which would be generated on foot of 1 no. additional dwelling at this location would not generate any significant intensification of development that would result in a traffic hazard and that to refuse permission on this basis would be unreasonable. In conclusion, I am satisfied that the sightlines available at the access to the public road are adequate to cater for the traffic that would be generated by the proposed development. It would not, therefore, give rise to traffic hazard and permission should not be refused for this reason.

## 7.6. **Wastewater Treatment**

7.6.1. The applicant's Site Suitability Assessment Report records the underlying aquifer as poor, with the groundwater having extreme vulnerability. On site visit I noted some localised wet conditions, with rushes on the lower (western) area of the subject site, though these were not extensive. The subject site is located within a groundwater protection scheme with a groundwater protection response of R2<sup>1</sup>. The EPA CoP

indicates that for sites which fall within the R2<sup>1</sup> response category, an on-site system is acceptable subject to normal good practice.

- 7.6.2. A trial hole of 2 m in depth was dug and no water table or bedrock were encountered. The site suitability test states that the sandy colour and classification of subsoil recorded indicated a well aerated soil that will be suitable for the construction of a percolation area.
- 7.6.3. The Site Suitability Assessment recorded a T-value of 33.89. As such, Table 6.4 of the EPA Code of Practice (2021) confirms that the site is suitable for a septic tank and percolation area, which the applicant also proposes. The proposed percolation area is to be constructed within in-situ soil, ensuring a minimum of 100mm free draining unsaturated soil separating the water table/bedrock from the invert of the percolation trench.
- 7.6.4. I note that storm water from the site is to be collected in gullies and piped to an open drain located along the northern boundary of the site, however the applicant has not included details of how the proposed access road to the site is to be drained. Given the orientation and slope of the site it is imperative that any surface water drainage from the access roadway be directed away from the proposed percolation area. If the Board are minded to grant permission I would suggest that surface water drainage arrangements for the proposed access road can be dealt with by way of condition.

## **7.7. Other Matters**

- 7.7.1. The appellant has raised concerns regarding works that may be required to her lands to provide for sufficient visibility splays at the access to the appeal site. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the Planning and Development Act 2000.

## 7.8. **Appropriate Assessment – Screening**

### **Compliance with Article 6(3) of the Habitats Directive**

- 7.8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

### **Background on the Application**

- 7.8.2. A screening report for Appropriate Assessment was not submitted. Therefore, this screening assessment has been carried out de-novo.

### **Screening for Appropriate Assessment- Test of likely significant effects**

- 7.8.3. 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 is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

### **Brief description of the development**

- 7.8.4. The subject site has already been described under Section 1 above and a description of the main elements of the proposed development is included under Section 2. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction related -uncontrolled surface water/silt/ construction related pollution; and
- Habitat disturbance /species disturbance (construction and or operational).

### **Submissions and Observations**

- 7.8.5. No submissions have been received from prescribed bodies relevant to this assessment. I note that the appellant raised concerns regarding disturbance to two specific bird species which include Corncrake and Cuckoo.

### **European Sites**

7.8.6. The development site is not located in or immediately adjacent to a European site. The closest European site is Sheephaven SAC, within 1.5 Km of the proposed development. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in table 7.1 overleaf. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

<b>Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.</b>				
<b>European Site (site code)</b>	<b>List of Qualifying interest /Special conservation Interest</b>	<b>Distance from proposed development (Km)</b>	<b>Connections (source, pathway receptor)</b>	<b>Considered further in screening Y/N</b>
<b>Special Area of Conservation (SAC)</b>				
Sheephaven SAC (001190)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p>	c. 1.5 km (west)	Hydrological connection exists through surface water from the site which discharges to the adjoining stream/burn which runs along the western boundary of the site and ultimately flows north for a distance of c. 2.1km and then into the Sheephaven SAC (Broad Water Bay) at Carraig Airt.	Y



	<p>Machairs (* in Ireland) [21A0]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Euphydryas aurinia (Marsh Fritillary) [1065]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>			
Mulroy Bay SAC (002159)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Lutra lutra (Otter) [1355]</p>	c. 2.9 km (north)	No direct connection. Weak indirect hydrological connection via surface water from the site which discharges to the adjoining stream/burn which runs along the western boundary of the site and ultimately flows north 2.1km into the Broad Water Bay (Sheephaven SAC) which adjoins Mulroy Bay SAC.	Y
Cloghernagore Bog And Glenveagh National Park SAC (002047)	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p>	c. 3 km (south west)	No direct avenues of connectivity.	N (due to separation distance and lack of connectivity)

	<p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinia caerulea</i>) [6410]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Depressions on peat substrates of the <i>Rhynchosporion</i> [7150]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Trichomanes speciosum</i> (Killarney Fern) [1421]</p>			
Sessiagh Lough SAC (000185)	<p>Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoetoneurancistrum</i> [3130]</p> <p><i>Najas flexilis</i> (Slender Naiad) [1833]</p>	c. 9 km (west)	No direct avenues of connectivity	N (due to separation distance and lack of connectivity)
Ballyhoorisky Point To Fanad Head SAC (001975)	<p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoetoneurancistrum</i> [3130]</p>	c. 10 km (north)	No direct avenues of connectivity	N (due to separation distance and lack of connectivity)

	<p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</p> <p>Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]</p> <p>Najas flexilis (Slender Naiad) [1833]</p>			
Muckish Mountain SAC (001179)	<p>Alpine and Boreal heaths [4060]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p>	c. 10 km (south west)	No direct avenues of connectivity	N (due to separation distance and lack of connectivity)
Horn Head And Rinclevan SAC (000147)	<p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Dunes with Salix repens ssp. argentea (Salicion arenariae) [2170]</p> <p>Humid dune slacks [2190]</p> <p>Machairs (* in Ireland) [21A0]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]</p> <p>Vertigo geyeri (Geyer's Whorl Snail) [1013]</p> <p>Halichoerus grypus (Grey Seal) [1364]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>	c. 10.1 km (west)	No direct avenues of connectivity	N (due to separation distance and lack of connectivity)

	Najas flexilis (Slender Naiad) [1833]			
<b>Leannan River SAC (002176)</b>	Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110] Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355] Najas flexilis (Slender Naiad) [1833]	c. 10.5km	No direct avenues of connectivity	N (due to separation distance and lack of connectivity)
<b>Special Protection Area (SPA)</b>				
Derryveagh And Glendowan Mountains SPA (004039)	Red-throated Diver (Gavia stellata) [A001] Merlin (Falco columbarius) [A098] Peregrine (Falco peregrinus) [A103] Golden Plover (Pluvialis apricaria) [A140] Dunlin (Calidris alpina schinzii) [A466]	c. 4.3 km (south west)	No - Due to distance and the lack of any relevant ex-situ factors of significance to these species.	N (due to separation distance and lack of connectivity)
Horn Head to Fanad Head SPA (004194)	Fulmar (Fulmarus glacialis) [A009] Cormorant (Phalacrocorax carbo) [A017] Shag (Phalacrocorax aristotelis) [A018] Barnacle Goose (Branta leucopsis) [A045]	c. 5.4km (north and west)	No - Due to distance and the lack of any relevant ex-situ factors of significance to these species.	N (due to separation distance and lack of connectivity)

	<p>Peregrine (<i>Falco peregrinus</i>) [A103]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p> <p>Chough (<i>Pyrrhocorax pyrrhocorax</i>) [A346]</p> <p>Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p>			
Greers Isle SPA (004082)	<p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Sandwich Tern (<i>Sterna sandvicensis</i>) [A191]</p>	c. 7.3 km (north east)	No - Due to distance and the lack of any relevant ex-situ factors of significance to these species.	N (due to separation distance and lack of connectivity)
Lough Fern SPA (004060)	<p>Pochard (<i>Aythya ferina</i>) [A059]</p> <p>Wetland and Waterbirds [A999]</p>	c. 10.5 km (south east)	No - Due to distance and the lack of any relevant ex-situ factors of significance to these species.	N (due to separation distance and lack of connectivity)
Fanad Head SPA (004148)	<p>Corncrake (<i>Crex crex</i>) [A122]</p>	c. 12km (north east)	No - Due to distance and the lack of any relevant ex-situ factors of significance to these species.	N (due to separation distance and lack of connectivity)

## **Identification of Likely Significant Effects**

### **Construction Phase Impacts**

- 7.8.7. Construction phase activity on the site will include vegetation clearance, soil excavation, infilling and landscaping for the proposed access road and dwelling house/garage location and dust and noise disturbance during works. During the construction phase there is potential for surface water runoff from site works to temporarily flow downhill and discharge to stream/burn which runs along the western boundary of the site, which ultimately discharges to Sheephaven SAC (Broadwater Bay) at a distance of c. 1.5km to the north. Adjacent to the Sheephaven SAC is the Mulroy SAC at c. 2.9km to the north east. However, the hydrological connection to the Broad Water Bay sites is indirect and weak. The construction works, including excavation and infilling will also be confined to the mid and upper area of the site, c. 58m from the stream (pathway) on the western boundary.
- 7.8.8. In my opinion the intervening land uses, and the separation distance means that water quality in the European sites will not be negatively affected by any contaminants, such as silt from site clearance and other construction activities, if such an event were to occur due to dilution and settling out over such a distance. Therefore, the construction phase of this small-scale development will not result in significant environmental impacts that could affect European Sites within the wider catchment area.
- 7.8.9. In relation to the Mulroy Bay SAC, I consider the 2.9km distance between the proposed development site and the European Site, the very weak and indirect ecological pathway and the dilution factor that would be involved is such that this small-scale proposal will not result in any likely changes to this European site.

### **Operational Phase Impacts**

- 7.8.10. Operational phase impacts may include direct emissions to air and water, surface water run off containing sediment and contamination, light disturbance, noise, presence of people, vehicles and activities on site. However as stated previously given the separation distance involved it is not expected that the water quality pertinent to the European sites will be negatively affected by any possible run off contaminants from the site. The proposed percolation area is to be located c. 41m from the stream and surface water from the site is to be collected in gullies and piped

to an open drain located along the northern boundary of the site and were any additional run off to flow downhill to the stream/burn given the dilution and settling out over a distance of 1.5km to the nearest SAC (Sheephaven SAC) no significant impact are likely to occur.

- 7.8.11. In relation to the Mulroy Bay SAC, I consider the 2.9km distance between the proposed development site and the European Site, the very weak and indirect ecological pathway and the dilution factor that would be involved is such that this small-scale proposal will not result in any likely changes to this European site.

### **In-combination Effects**

- 7.8.12. All recent extant and proposed planning applications in the area have been screened for appropriate assessment and where necessary Natura Impact Statements have been submitted and assessed. While I note that the surrounding area has a significant number of historical one-off rural dwellings and individual on-site wastewater treatment systems, having examined the submitted site investigations report and suitability assessment, I am satisfied that the current proposal's on site waste water treatment system will not cause any likely significant effects that would result in any significant in-combination effects.

### **Other concerns raised**

- 7.8.13. I note that the appellant raised concerns in relation to possible impacts on the Corncrake species and Cuckoo. The nearest SPA designated for the protection of corncrake is Fanad Head SPA (004148) which is located 12km northeast of the site. No evidence of Corncrake or suitable Corncrake habitat were observed during site visit. The other species of concern the Cuckoo is not listed as a qualifying interest of any of the nearby SPAs and given that minimum vegetation is to be removed from the site and that landscaping including the planting of native species is proposed by the applicants, which can be ensured by condition if the Board are minded to grant permission, I am satisfied that no significant impacts will occur as a result of the proposal on either species.

### **Mitigation Measures**

- 7.8.14. No 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.

### **Screening Determination - Finding of no likely significant effect**

- 7.8.15. 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 has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the Sheephaven SAC (001190), the Mulroy Bay SAC (002159) or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.8.16. This determination is based on the following: Distance of the proposed development from European sites, dilution factor and lack of meaningful ecological connections to those sites.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be **refused** for the proposed development based on the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

1. The proposed development would constitute inappropriate backland development and when taken in conjunction with existing development in the vicinity of the site, would contribute to the build-up and extension of ribbon development in this rural area. The proposed development would, therefore, be contrary to the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April 2005 and to the relevant provisions of the Donegal County Development Plan 2018-2024, including Policy RH-P-2 relating to haphazard and ribbon development and guidance on the location of new development in rural areas. It is also considered that the proposed



development in conjunction with other dwellings in the vicinity would exacerbate the suburban pattern of development in this rural area and would give rise to the demand for uneconomic provision of infrastructure in the hinterland of Carrigart Village which would be contrary to Rural Housing Objective RH-0-4. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Máire Daly  
Planning Inspector

19<sup>th</sup> December 2021