



An
Bord
Pleanála

Inspector's Report ABP311030-21

Development	Construction of a dwellinghouse with on-site wastewater treatment system.
Location	Gortnacorrib, Letterkenny, County Donegal.
Planning Authority	Donegal County Council.
Planning Authority Reg. Ref.	21 50969.
Applicants	Shane and Katie McMonagle.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	Alan McCaffery.
Observers	None.
Date of Site Inspection	19 th September, 2021.
Inspector	Paul Caprani.

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1.0 Introduction

ABP311030-21 relates to a third-party appeal against the decision of Donegal County Council to issue notification to grant planning permission for the erection of a dwellinghouse with an on-site wastewater treatment system at a site to north-west of the town of Letterkenny in North Donegal. The grounds of appeal argue that the applicant in this instance does not satisfy housing need criteria and that the subject site could give rise to road safety and traffic hazard issues and may be unsuitable to accommodate a wastewater treatment system.

2.0 Site Location and Description

- 2.1. The appeal site is located in the townland of Gortnacorrib approximately 4.0 kilometres north-west of the centre of the town. The site is accessed from Letterkenny via third-class road which runs north-westwards from the town towards the direction of Church Hill. The local access road serving the site (L-6082-1) runs northwards from this Road towards the townland of Killyclug. The subject site is just beyond the suburban periphery of north-west Letterkenny. The nearest suburban estates of Cluain Ard and Gleann Eadan are located c.1 kilometre to the south-east of the subject site.
- 2.2. Notwithstanding the fact that the subject site is located beyond the suburban periphery of the town the area, in which the site is located has been the subject of significant residential development in the form of ribbon development along the roads in the vicinity. There are a large number of dwellinghouses fronting onto the local road running north-west from the town towards Church Hill and 3 more recently constructed dwellinghouses are located directly opposite the site on the eastern side of the road serving the site.
- 2.3. The subject site is rectangular in shape and is stated on the planning application form as being 0.2 hectares in size. It has a site frontage of just less than 35 metres and a depth of approximately 65 metres. It forms the north-eastern corner of a larger field which has frontage onto both roads in the vicinity of the site along the eastern and southern boundary of the field in question. Lands to the immediate north-west and south of the subject site are currently undeveloped. A number of relatively new dwellinghouses have been constructed directly opposite and face onto the subject

site. The local access road serving the site is c.3 metres in width. The site is currently under grass and is used for the grazing of animals.

3.0 Proposed Development

- 3.1. Planning permission is sought for the construction of a dwellinghouse on the subject site. The dwellinghouse comprises of 2 two-storey elements linked by a central single storey entrance and hallway. The gable ends of the larger two-storey elements front onto the public road. The northern portion of the dwelling incorporates a larger two-storey element which accommodates the main living accommodation in the form of kitchen/dining and living area (together with utility and hallway) at ground floor level, with four bedrooms (one en-suite) and a bathroom at first floor level. The smaller element of the house to the south of the main entrance accommodates a separate office, lounge and shower area with storage accommodation at first floor level in the front portion of the building which is illuminated by two rooflights. The dwelling rises to a maximum height of 8.395 metres. The southern portion of the building rises to a height of just over 6.3 metres. The building incorporates a smooth plaster finish with blue/black slates to the roof.
- 3.2. The dwelling house a gross floor area of 245 square metres. The front portion of the building is setback between 17 and 27 metres from the front boundary of the site. A proprietary wastewater treatment system is to be located to the rear of the dwelling with a polishing filter in the rear garden.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Donegal County Council issued notification to grant planning permission for the proposed development subject to 17 conditions.

4.2. Documentation Submitted with the Planning Application

- 4.2.1. The documentation submitted with the application included the following:
- The application was accompanied by a number of letters including:

- A letter from the architect stating that while the site is connected to the River Leannan SAC the river at its closest point is approximately 4.6 kilometres downstream and the hydrological distance between the site and the SAC is just less than 5 kilometres. It is therefore concluded that a screening for appropriate assessment is not required.
- A letter from a local councillor stating that the applicant complies with local housing need being from the area and that the applicant's family have historically farmed lands in the area for many generations.
- A letter of consent from the landowner is also submitted.
- A traffic speed survey was also submitted. The total number of vehicles surveyed over a 90 minute period (9 a.m. to 10.30 p.m.) amounted to 16 vehicles pass the site. The 85th percentile speed was recorded 26.5 kilometres per hour. It is also stated that vision lines of 70 metres to the north and 60 metres to the south are achieved.

4.2.2. A site suitability report noted that no groundwater ingress was recorded in the trial hole and a T test of 37 was recorded. It is therefore proposed to incorporate a package wastewater treatment system and polishing filter.

4.2.3. A third-party letter of objection was submitted, the contents of which have been read and noted.

4.2.4. The planner's report sets out details of the site and notes that the area immediately adjoining the site is characterised by a mix of dormer bungalows and two-storey dwellings. It is also noted that the site is located in an area of moderate scenic amenity and falls within a designated 'Stronger Rural Area'. It notes that no internal reports were received from the Environmental Health Officer, Area Road Engineer or Irish Water. It was noted that the application is supported by a supplementary rural housing application form which claims that the proposed development will be applicant's primary principle and permanent residence. It is stated that the applicant and his family have had a vital link to the rural area for the past 7 years. The Planning Authority is satisfied that the principle of development is acceptable based on the bona fides of the letter submitted in respect of housing need.

- 4.2.5. It is noted that the area has experienced considerable urban pressure by virtue of its proximity to Letterkenny and its rural character. While the proposal will not in itself give rise to ribbon development it is recommended that careful monitoring to ensure ribbon development does not occur by the precedent of development of the subject site should take place. It is considered that the overall scale and design of the development will assist in the assimilation of the structure within the existing landscape. The dwelling provides a high standard of design.
- 4.2.6. Having regard to the separation distance between the dwelling and adjoining dwellings, it is considered that no residential amenity issues arise in respect of privacy or overlooking. No concerns are expressed in relation to access and sightlines at the proposed entrance. Likewise, no concerns are expressed in relation to the suitability of the site to accommodate a wastewater treatment plant. It is also concluded that no appropriate assessment issues arise. On the above basis, Donegal County Council issued notification to grant planning permission for the proposed development.

5.0 Planning History

No history files are attached. The planning report likewise confirms that there is no planning history associated with the subject site. It is noted that pre-planning application advice was given to the applicant via email in respect of the current application before the Board.

6.0 Grounds of Appeal

- 6.1. The decision of Donegal County Council to issue notification to grant planning permission for the proposed development was appealed by Alan McCaffery of Gortnacorrib, Letterkenny. The grounds of appeal are outlined below.
- 6.1.1. The grounds of appeal state that the appellant made a submission to Donegal County Council however, this submission was not taken into consideration or referred to in the planner's report prepared.
- 6.1.2. It is stated that the site is located in a stronger rural area, and therefore by allowing this development to proceed it will give rise to the suburbanisation of agricultural

lands along a local rural road. It is stated that the roadway has neither the carrying capacity or the safety capacity to accept more vehicles. The road in question does not allow for two cars to pass each other in opposite directions without pulling into a layby. The roadway is also extensively used by walkers and runners.

- 6.1.3. It is stated that the applicants are not from the local area but are from Glendowan in Church Hill which is almost 12 kilometres away. The applicant has no links to the area and therefore cannot be considered local. The proposal will exacerbate suburban sprawl outside lands zoned for development and in this regard the proposal is contrary to the Regional Spatial Strategy for the north-est area. Further development of agricultural lands in the periphery of towns will dilute the urban rural divide.
- 6.1.4. It is argued that the provision of a dwelling on this modest site together with a proprietary wastewater treatment system will lead to pollution on the basis that the safe disposal of effluent cannot be achieved on the site.
- 6.1.5. The owner of the site is no relation the applicants. Further information is required as to whether or not the applicant has any links to the area where they propose to build.
- 6.1.6. The herd number referred to in the local councillor's letter of support for this application is associated with lands at Glendowan which is quite a distance from the proposed site c.10-12 kilometres away.
- 6.1.7. A grant of planning permission at this location will set a precedent for ribbon development on the western side of the road which is currently undeveloped in its entirety.
- 6.1.8. Finally, the grounds of appeal express concerns in relation to restricted sightlines and the proposed entrance to the site.

7.0 Appeal Responses

- 7.1. A response was received from the applicant on 30th August, 2021.
- 7.2. By way of a preliminary matter the applicant requested that the Board make a determination in respect of the validity of the application on the basis that no evidentiary proof was submitted on the valid application to the Planning Authority.

- 7.3. Notwithstanding the arguments put forward to seek a dismissal of the appeal, on the above grounds, Appendix 2 of the response addresses the planning issues raised in the grounds of appeal.
- 7.4. While the subject site is located in stronger rural area, it is not accepted that the proposal will in any way erode the rural character of the area. The subject site is located within an existing cluster of 9 residential properties which includes the home of the appellant. The proposal will constitute an infill development which would not give rise to suburbanisation.
- 7.5. The traffic survey undertaken has clearly identified a low volume of slow-moving traffic at this local link road. This illustrates that the road has sufficient capacity to accommodate existing traffic and any future traffic associated with the development.
- 7.6. Any further proposals which may or may not exacerbate linear development will be assessed on its merits.
- 7.7. It is argued that 12 kilometres is not a significant distance in terms of rural living and many farms in Ireland have out farms or remote parcels of land which exceed this distance. There is no reference to any minimum distances set out in Policy RH-P-3 with regard to farmholdings and residences. The applicants' farm has been operated since 1903 and details of the applicants' great-great-grandfather's deeds are contained in Annex 2 of the submission. It is inappropriate that the appellant would question the applicants' lineage and links to the local area.
- 7.8. The applicants live within 1.8 kilometres of the proposed site and have established strong links to the community which they then seek to retain. The current housing estate which the applicants live and are currently renting, have problems with mica contamination.
- 7.9. Any reference to the Regional Spatial Strategy for the northern and western region are not strictly applicable and the Regional Growth Centre Strategic Plans (RGCSP) are not strictly relevant, as the applicants in this instance clearly meet the requirements of RH-P-3.
- 7.10. Furthermore, the subject site is not located in an unserved area having electricity, high street broadband and mains water supply.

- 7.11. With regard to the suitability of the site to accommodate an on-site wastewater treatment system, it is stated that the site suitability report and the planner's report have expressed no concerns in relation to same.
- 7.12. The owner of the land in question is a farmer and friend of the applicants' father and has known the applicants' family for years.
- 7.13. It is argued that the Planning Authority have no concerns with regard to the required sightlines at the proposed development. In conclusion therefore it is stated that the appellant has not raised any issues which the Planning Authority have not already comprehensively addressed.
- 7.14. In conclusion therefore, it is stated that An Bord Pleanála should not take the grounds of appeal in consideration on the basis that it has not been demonstrated that a valid observation was submitted to the Planning Authority in the first instance. Notwithstanding the above point, and without prejudice to this fact, it is argued that the issues raised in the grounds of appeal have been fully addressed and that the decision of Donegal County Council in this instance should be upheld.
- 7.15. **Submission from Donegal County Council**
- 7.15.1. Donegal County Council wishes to state that it can confirm that the Planning Authority was not in receipt of a valid submission from this party and as such the submission was not considered by the Planning Service in the assessment of the application. It would appear that during the current Covid restrictions that the submission was hand delivered to the Corporate Reception at Donegal County Council's headquarters in Lifford and a receipt was issued. As can be seen on the copy of the third party submission provided to An Bord Pleanála by the appellant, that the submission in question did not include an address to which correspondence relating to the appellant could be sent. As such this submission was deemed invalid. Therefore, the submission was not passed to the Area Planner for consideration. Furthermore, the third party was not notified of the outcome of the Council's decision to grant, and due to the absence of an address the fee could not be refunded.
- 7.15.2. Despite the anomalies that appear to have occurred and despite the fact that the Planning Authority has not taken Mr. McCaffrey's submission into account, it is nevertheless considered that all matters relating to the principle of development including rural housing need, siting, design, traffic, public health etc. have been

taken into account in the assessment of the planning application. The Planning Authority's looks forward to An Bord Pleanála's clarification as to whether or not the appeal can proceed in light of the above matters.

7.16. Initial Determination by the Board

- 7.16.1. In a Board direction dated 14th September, 2021 the Board concluded having considered the evidence provided in respect of the observation made to the Planning Authority by the third party appellant, which is acknowledged not to have been taken into account in their decision making process, and in the interests of fairness and natural justice, the Board are satisfied that the appeal should be treated as valid and that the case should continue to be processed in the usual manner.

8.0 Development Plan Provision

8.1. The site is governed by the policies and provisions contained in the Donegal County Development Plan 2018 – 2024.

8.2. The site is located outside the administrative boundaries of Letterkenny and is not governed by any specific land use zoning objective.

8.3. Section 6.3 of the development plan relates to the rural housing. The subject site is located in an area identified as an “stronger rural area”. As such, Policy RH-P-3 of the County Development Plan applies. It states the following: “It is the policy of the Council to consider proposals from prospective applicants in need of housing within an area defined as a ‘stronger rural area’ provided that they can demonstrate that they comply with all other relevant policies in the Plan including RH-P-1 and RH-P-2, where the applicant can demonstrate that they comply with one or more of the following:

- *Persons whose primary employment is rural based activity with a demonstrated genuine need to live in the locality of that employment base for example those working in agriculture, forestry, horticulture etc.*
- *Persons with a vital link to the rural area by reason of having lived in this community for a substantial period of their lives (7 years minimum) or by the existence in a rural area of long-established ties (7 years minimum) with*

immediate family members, or by reason of providing care to a person who is an existing residents (7 years minimum).

- *Persons who, for exceptional health circumstances, can demonstrate a genuine need to reside in a particular rural location.*

8.4. *This policy shall not apply where an individual has already had the benefit of a permission for a dwelling on another site, unless exceptional circumstances can be demonstrated. Exceptional circumstances would include, but would not be limited to, situations where the applicant has sold a previously permitted, constructed an occupied dwelling, to an individual who fulfils the bona fides requirements of that permission. New holiday home development will not be permitted in these areas.*

8.5. Policy RH-P-1 – it is the policy of the Council that the following requirements apply to all proposals for rural housing.

1. *Proposals for individual dwellings shall be subject to an application of best practice in relation to siting, location and design of rural housing as set out in Appendix 4 and shall comply with Policy RH-P-2.*
2. *Proposals for individual dwellings shall be sited and designed in a manner that enables the development to assimilate into the receiving landscape and that it is sensitive to the integrity and character of rural areas as identified in Chapter 7 and Map 7.1.1 of this Plan. Proposals for individual dwellings shall also be located in such a manner so as not to adversely impact on Natura 2000 sites, or other designated habitats of conservation importance, prospects or views including views covered by Policy NH-P-17.*
3. *Any proposed dwelling, either by itself or cumulatively with other existing and improved development, shall not negatively impact on protected areas defined by the north-western international river basin district plan.*
4. *Site access/egress shall be configured in a manner that does not constitute a hazard to road users or significantly scar the landscape and shall have regard to Policy T-P-15.*
5. *Any proposals for a new rural dwelling which does not connect to the public sewer or drain shall provide for the safe and efficient disposal of effluent and*

surface waters in a manner that does not pose a risk to public health and accords with the Environmental Protection Agency's Code of Practice.

6. *Policies for individual dwellings shall be subject to flood risk management policies of this plan.*
7. *In the event of a grant of planning permission the Council will attach an occupancy condition which may require the completion of a legal agreement under Section 47 of the Planning and Development Act 2000 (as amended).*

8.6. Policy RH-P-2 states that it is the policy of the Council to consider proposals for a new rural dwelling which meets a demonstrated need provided that the development is of an appropriate quality design, integrates successfully into the landscape, and does not cause a detrimental change to, or further erode the rural character of the area. In considering the acceptability of a proposal the Council will be guided by the following considerations.

1. *A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in a rural area.*
2. *The proposed dwelling shall not create or add to ribbon development.*
3. *The proposed dwelling shall not result in a development which by its positioning, siting or location would be detrimental to the amenity of the area or other rural dwellers or would constitute a haphazard development.*
4. *A proposed dwelling would be unacceptable where it is prominent in the landscape and shall have regard to Policy T-P-15.*
5. *A proposed new dwelling would be unacceptable where it fails to blend with landform, existing trees or vegetation, buildings, slopes or other natural features which can help its integration. Proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. The extent of excavation that may be considered will depend upon the circumstances of the case, including the extent of which the development of the proposed site, including any necessary site works, will blend in unobtrusively with its immediate and wider surroundings.*

8.7. Natural Heritage Designation

- 8.7.1. The site is not located within or contiguous to a designated Natura 2000 site. The nearest Natura 2000 site is the Leannan River SAC (Site Code: 002176). As the crow flies this SAC is located c.3.1 kilometres from the subject site. In terms of its hydrological connection the distance between the subject site and the SAC is estimated to be just less than 5 kilometres.

8.8. EIAR Screening

- 8.8.1. Having regard to the nature of the development comprising of a single dwelling in a rural 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.

9.0 Planning Assessment

I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal. I have also had specific regard to the policies and provisions contained in the development plan in respect of rural housing provision. I consider that the Board can generally restrict its deliberations to the specific issues raised in the grounds of appeal namely:

- Compliance with Rural Housing Policy
- Road Capacity and Sightline Issues
- Ribbon Development and Urban Sprawl Issues
- Suitability of the Site for an On-site Wastewater Treatment System
- Appropriate Assessment Issues

9.1. Compliance with Rural Housing Policy

- 9.1.1. Policy RH-P-3 states it is the policy of the Council to consider proposals from prospective applicants in need of housing within an area defined as a 'stronger rural area', as in the case of the subject site. The Council will consider such proposals provided they demonstrate that they can comply with other policies in the Plan and where they can comply with one or more of the following:

- *Persons whose primary employment is rural based activity with a demonstrated genuine need to live in the locality of that employment base for example those working in agriculture, forestry, horticulture etc.*

9.1.2. The applicant in submitting documentation with the application included a supplementary rural housing application form. In this form the applicant indicates that the proposed dwelling is to be his primary principle permanent residence. The applicant has also indicated that he has a vital link to the rural area by reason of existence of the immediate family members in the community for a minimum of 7 years. The applicant has also submitted supporting documentary evidence by way of a bona fide letter from an elected member of Donegal County Council. This documentary evidence states that the applicants' family has owned and farmed land in the wider area since the beginning of the 20th century and that the applicant in this instance is actively engaged in farming. It appears however that the lands in question are not located within the immediate vicinity of the site but are located some 10 kilometres to the west at Glendowan, near Church Hill. This point is asserted by the appellant in the third-party appeal and is not contradicted by the applicant in his response to the grounds of appeal. The applicants further contends that 10/12 kilometres is not a significant distance in terms of rural living and that many farms in Ireland have out farms or remote parcels of land which are a similar distance from the household.

9.1.3. I am satisfied based on the information contained on file that the applicant comes from a farming family and that the family are well established in farming activity in the wider area, based on the information contained on file. In this regard I consider that the applicant has demonstrated long established ties with the wider rural area. I am also satisfied having regard to the provision of a herd number that the applicant is working in agriculture. Furthermore, I would accept the fact that Policy RH-P-3 does not discriminate people who meet the criteria in respect of working in agriculture etc. on the basis of the distance from the family farm. There appears to be no policy statements contained in the development plan which require persons involved in agriculture to construct houses in rural areas within say 5, 7 or 10 kilometres from the family home. On this basis a very strict interpretation of Policy RH-P-3, it would suggest that the applicants in this instance complies with the criteria set out in the development plan in respect of rural housing need.

- 9.1.4. It would appear on the basis of the information submitted that the applicant in this instance would also comply with the general policy criteria set out in the Sustainable Rural Housing Guidelines for Planning Authorities (April 2005) in that it can be argued that the applicant in this instance is an intrinsic part of the rural community and constitutes a person working full-time or part-time in a rural area. On this basis the guidelines suggest that Planning Authorities should look favourably on an applicant's proposal for an individual house in a rural area where the applicant comes within the development plan definition of need.
- 9.1.5. With regard to the National Planning Framework and in particular National Policy Objective 19, national planning guidelines suggest that in rural areas under urban influence the Framework seeks to facilitate the provision of single houses in the countryside based on the core consideration of demonstratable economic and social need to live in a rural area as well as siting and design criteria. The Board should note in this instance that while the subject site is located in an area designated in the Donegal Development Plan as "a stronger rural area" as opposed to a separate category under the development plan which specifically relates to "areas under strong urban influence" the subject site can nevertheless having regard to its proximity to Letterkenny be considered as an area under urban influence. Notwithstanding this point it still appears based on the information contained on file that the applicant is primarily involved in agriculture and therefore has demonstrated an economic need to live in a rural area subject to siting and design criteria.
- 9.1.6. On the basis of the above therefore, and in accordance with the criteria set out in the local county development plan, the Rural Planning Housing Guidelines, and the National Planning Framework, I consider that the Board based on the information submitted can come to a conclusion that the applicant in this instance complies with relevant criteria set out in respect of housing need.

9.2. Road Capacity and Sightline Issues

- 9.2.1. The grounds of appeal suggest that the local road serving the proposed development (the I-6082-1) is a minor country road approximately 2.7 metres wide which does not allow two cars to pass each other in opposite directions. Having inspected the subject site I would acknowledge that the road in question is narrow. There is however scope and opportunity for cars to adequately pass each other in

opposite directions. There are numerous laybys within the vicinity of the site including the setback associated with the three dwelling houses recently constructed directly opposite the site. The subject site is a mere 60 metres from the main public road to the south of the site which provides access to Letterkenny and westwards towards Church Hill and Glendowan. It is my view that the roadway to the south of the entrance including the setbacks to the three dwelling houses opposite has ample width and capacity to cater for traffic generated by the proposed development. Furthermore, I consider that the level of traffic generated by the proposed development will be relatively modest and will not give rise to significant volumes of traffic on a daily basis. The level of traffic generation from the proposed development, in conjunction with the figures presented in the traffic survey submitted with the application, suggests that the road in question accommodates very light volumes of traffic (less than one vehicle every 5 minutes). Furthermore, the average speed of the traffic along the access road is relatively slow at less than 30 kmph per hour. On the basis of the above information, I would conclude that traffic generated by the proposed development will not result in a traffic hazard or present any adverse road safety issues for other vehicular traffic or walkers or runners who may also use the road.

- 9.2.2. Likewise with regard to sightlines, the Board will note from the photographs attached from my site inspection and the maps submitted that the proposed development fronts onto a very straight section of road where good sightlines are afforded in a northerly and southerly direction. This coupled with the average speed of vehicles travelling along the road will ensure that the sightlines provided would be acceptable and would not result in a traffic hazard.

9.3. Ribbon Development and Urban Sprawl Issues

- 9.3.1. The grounds of appeal suggest that the proposed dwelling house will exacerbate urban sprawl in the area and will accentuate the propensity for ribbon development along local roads. In relation to the issue of urban sprawl, I do acknowledge that there is a concentration of one-off houses in the vicinity of the junction to the south of the subject site. There are a total of six houses fronting onto the southern side of the local road running north-westwards from Letterkenny. In addition, there are three dwelling houses fronting onto the eastern side of the access road serving the development directly opposite the site. It could be reasonably argued in my view that

the provision of an additional dwelling on the subject site exacerbates or accentuates the expansion of suburban pattern of development in rural areas and as such this is contrary to Policy RH-P-2. It could equally be argued however that the provision of an additional house at this location consolidates the cluster of dwellings in the immediate vicinity of the subject site and this may prove to be more preferable than the provision of more dispersed settlement over a wider area on the periphery of Letterkenny Town. I have already argued above that the applicant has, based on the information submitted on file, complied with the housing need criteria set out in the development plan, being actively engaged in agricultural activity, and I also consider that the proposed design of the dwelling house is appropriate. The size and scale of the overall structure has been broken up so as to ensure that it does not have a disproportionate effect on the visual amenities of the area. On balance therefore, I consider that the Board could accept the proposition that the proposed development does not cause a detrimental change or significantly erode the rural character of the area.

- 9.3.2. With regard to ribbon development, I would agree with the Planning Authority that the proposal in this instance does not accentuate or expand the linear nature of development along this section of roadway. As such, the proposed does not contribute to ribbon development along the roadway.

9.4. Suitability of the Site for an On-site Wastewater Treatment System

- 9.4.1. Having inspected the site I note that the field in question constitutes a well-drained field with little evidence of poor percolation characteristics nor does it contain widespread vegetation which is reflective of poor percolation characteristics¹. Documentation submitted with the application including the site suitability assessment would support this contention. While no trial hole was left open during my site inspection the site characterisation form clearly indicates that no groundwater or water table was encountered during the excavation of the trial hole to a depth of 2 metres. This suggests that there is ample attenuation qualities within the soil and subsoil to adequately treat effluent and wastewater arising from the proposed development. The R¹ Groundwater Protection Response also suggests that the site may be suitable to accommodate an on-site WWTS. T -Tests yielded

¹ Some rushes were present but they were confined to the lower area of the field, well scattered and did not form the dominant form of vegetation anywhere within the field.

values of 37 which also suggests that the soils and subsoils have adequate infiltration and attenuation characteristics to treat effluent. The overall site is of a sufficient size to accommodate effluent generated from a single dwelling house. I am satisfied based on my site inspection and the information contained in the site characterisation form that the subject site has adequate characteristics to successfully attenuate any effluent discharged from the proposed dwelling house without presenting a threat to groundwater or surface waters in the area in terms of pollution. The Board will also note that there are no springs or wells within 250m of the proposed WWTS.

9.5. **Appropriate Assessment Issues**

9.5.1. The site is not located within or contiguous to a designated Natura 2000 site. The nearest Natura 2000 site as the crow flies is the River Leannan SAC which is located just over 3 kilometres from the subject site. Having regard to the separation distance between the subject site and the nearest Natura 2000 site, no direct impacts are anticipated.

9.5.2. A small ditch located along the northern boundary of the site flows into a small stream approximately 300 metres to the west (rear) of the field of which the subject site forms part. This stream runs northwards and links up with the Glashagh River which in turn discharges into the Leannan River at Dunmore Bridge approximately 4.6 to 4.8 kilometres north of the subject site. The Leannan SAC (Site Code: 002176) has the following qualifying interests:

- *Oligotrophic waters containing very few minerals of sandy plains [3110]*
- *Oligotrophic to mesotrophic standing waters with vegetations of littorelletea uniflorae and/or isoeto-nanojuncetea [3130]*
- *Freshwater Pearl Mussel [1029]*
- *Salmon [1106]*
- *Otter [1355]*
- *Slender Naiad [1833]*

9.5.3. I note that the oligotrophic and mesotrophic waters as designated are associated with Gartan Lough and Loch Mhic Ciabain both of which are located upstream of

Drumore Bridge. Lough Fern is also designated as an oligotrophic to mesotrophic standing water however, this lake is located approximately 11 kilometres from the stream that runs along the field boundary to the rear of the site. The Freshwater Pearl Mussel is located within the vicinity of Drumore Bridge. While the otter and slender naiad are both associated with the oligotrophic and mesotrophic water bodies referred to above.

- 9.5.4. The only potential impact that could possibly occur arising from the proposed development relates to potential impact on the Freshwater Pearl Mussel. However, any construction works carried out on the subject site which could potentially give rise to increased levels of sedimentation and/or hydrocarbon spills are located a sufficient distance from any Freshwater Pearl Mussel beds² to ensure that no potential impact takes place. The levels of dilution and dispersion from any pollution event arising from the construction phase would be such that no adverse impact could occur on the bed of the Leannan River almost 5 kilometres away.
- 9.5.5. During the operational phase no expected adverse impacts are likely to occur on the basis that effluent generated will be adequately treated and attenuated and as such will not pose a treat in terms of pollution.
- 9.5.6. In combination effects from other developments are unlikely to occur on the qualifying interests associated with the River Leannan on the basis that it is assumed that any developments in the wider area, would have been the subject of either an AA screening exercise or a more comprehensive NIS. Where potential impacts were identified and where such adverse impacts cannot be ruled out, the planning authority would be precluded from granting planning permission for these proposed developments. As such in-combination effects cannot occur.
- 9.5.7. 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 and projects would not be likely to have a significant effect on European site (002176) or any other European site, in view of the site's conservation objectives and an appropriate

² Fresh Water Pearl Mussel beds are particularly susceptible and sensitive to increases in sedimentation.

assessment and a submission of an NIS is therefore not required. This determination has been based on the conclusion that the distance of the proposed development from the European site in question will not present a threat to any of the qualifying interests associated with the Natura 2000 site. In making this screening determination no account has been taken of any of the measures intended to avoid or reduce potentially harmful effects on the project on a European site.

10.0 Conclusions and Recommendation

Arising from my assessment above therefore I consider that An Bord Pleanála can uphold the decision of the Planning Authority and grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

11.0 Reasons and Considerations

It is considered that the applicant in this instance complies with criteria set out in Policy RH-P-3 in respect of rural housing within an area defined as a stronger rural area in the Donegal County Development Plan 2018 – 2024, and that subject to conditions set out below, the proposed development will not seriously injure the visual or residential amenities of the area, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development therefore is in accordance with the proper planning and sustainable development of the area.

12.0 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 the 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 house 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. Details of the proposed fenestration arrangements on the front elevation of the proposed dwelling house shall be the subject of written agreement with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

4. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter [unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant]. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
 - (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.

5. Prior to the commencement of development details of permanent visibility splays of 50 metres shall be provided in each direction to the nearside road edge at a point 2.4 metres back from the road at the location of the proposed vehicular entrance. Details of the visibility splays shall be provided for as per Figure 2 of Appendix 3 (Development Guidelines and Technical Standards) of Part B of the County Donegal Development Plan 2018 – 2024.

Reason: In the interest of traffic safety.

6. The existing front boundary shall be retained except to the extent that its removal is necessary in order to provide for entrance to the site and to provide adequate vision splays in both directions from the proposed entrance.

Reason: In the interest of visual amenity.

7. Details of the removal and relocation of any overhead poles and overground and underground lines shall be removed and relocated in accordance with the requirements of the planning authority. All said works shall be carried out prior to the first occupation of the dwelling house permitted.

Reason: In the interest of orderly development.

8. All water supply and water drainage arrangements including the attenuation of surface water and any works to be carried out along the roadside drain shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health and to prevent flooding.

9. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interests of orderly development

10. 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.

11. Details of the proposed internal access road from the public road to the dwelling house shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

12. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

13. The site shall be landscaped using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Any plants which die, 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 interests of visual amenity.

14. Details of the potable water supply to be derived from the public mains in accordance with the information submitted with the planning application shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development and public health.

15. (a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and 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.

Reason: In the interest of public health.

16. The developer shall pay to the planning authority a financial contribution of €2,711 (two thousand seven hundred and eleven euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Paul Caprani,
Senior Planning Inspector.

29th September, 2021.