



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312138-21

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<b>Development</b>	Construction of dwelling and associated site works
<b>Location</b>	Doon Glebe, Letterkenny, Letterkenny Po, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2150910
<b>Applicant(s)</b>	Liam Dorrian.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Rosemary Gallagher.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	10 <sup>th</sup> March 2022.
<b>Inspector</b>	Barry O'Donnell

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.348ha and is located at Doon Glebe, approx 5km west of Letterkenny, in a rural part of County Donegal. The site is backland in nature and is set on a severe incline, approx. 25m above the level of the R250 Letterkenny-Glenties Road, which lies to the south.
- 1.2. The site forms part of a larger field that it enclosed along north, east and south boundaries by vegetation and trees and along the west boundary, which is shared with an adjoining detached property, by a timber post and rail fence.
- 1.3. The site is accessed from a stone track that runs perpendicular to the R250, running up the steep incline and which provides access to an existing house and surrounding farmland.
- 1.4. The local area displays pressure for rural housing; there are nine houses on the north side of the R250 in the vicinity of the site access and other rural housing clusters is visible in the wider landscape. There are a mix of traditional and contemporary houses in the area, ranging from traditional bungalow and dormer bungalow designs to contemporary single and two-storey housing.

## 2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises construction of a dwelling, domestic garage and wastewater treatment system, together with associated site works.
- 2.2. The site notice identifies that the subject site is set back 160m from the public road.
- 2.3. The proposed development was amended at the additional information stage in relation to the proposed ridge height and proposed finished floor level of the house. The proposed house is a four-bedroom dormer bungalow with a stated floor area of 214.48sqm.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority granted permission on 11<sup>th</sup> November 2021, subject to 15 No. planning conditions.

Condition No. 3 requires that visibility splays of 2m x 160m to the northwest to the nearest point of the road edge and 2m x 145m to the southeast shall be provided to the centreline of the road.

Condition No. 10 requires that the access road should not be black topped and shall not be defined by concrete kerbing, but left with a natural edge finish. The road shall be surfaced with natural or coloured aggregate gravel and shall not be bound by bituminous or concrete material.

Condition No. 12 requires that all site boundaries shall be planted with semi-mature hedgerow species and that at least 36 No. semi-mature trees shall be planted within the first planting season and with at least 18 trees planted to the front of the building line.

Condition No. 15 requires payment of a financial contribution of €2,711.15, in accordance with the S48 development contribution scheme.

### 3.2. Planning Authority Reports

- 3.2.1. Planning Reports dated 29<sup>th</sup> June 2021 and 9<sup>th</sup> November 2021 have been provided. The first report states that the site is located in an area under strong urban influence and deems the principle of development to be acceptable following submission of a bona fida letter from a County Councillor. The report refers to pre-planning advice provided to the applicant, where it was advised that the proposed house and an additional house proposed immediately to the south of the site should be designed to form a closed end to the cul-de-sac, in order to restrict the potential for further development to be accessed from it. The report states that the proposed development does not provide clarity regarding this advice and recommends additional information on this basis. Regarding the proposed house, the report recommends that reduced finished floor and ridge levels should be incorporated. No

issues are anticipated to arise in relation to loss of privacy, overlooking or residential amenity. Regarding access, the report states that vision lines of 3m x 160m are required in both directions and that reduced vision is shown to the south-east on the application drawings. Additional information is recommended in relation to this issue. Additional information is also recommended regarding foul drainage proposals, in relation to the number and location of adjacent systems. Regarding appropriate assessment, it states that in view of the separation distance from the SAC, the absence of a hydrological link and the presence of local and county roads in the intervening space between sites, significant adverse effects are unlikely. The report recommends the following additional information request: -

1. Applicant to submit a revised site layout that indicates (a) ownership details of land to the south and proposed access to all lands in the vicinity, (b) a single access provided to both the subject site and the site to the south, (c) details of extent, type and location of foul treatment systems within 100m of the site, and (d) revised finished floor level of 49.5m.
2. Applicant to submit revised house design proposals indicating maximum ridge height of 7.75m.
3. Applicant to submit documentary evidence of all affected landowners relating to revised access arrangements as per items 1 a & b of the AI request.
4. Applicant to submit proposals for achievement of vision lines of 3m x 160m in both directions along the R250.

3.2.2. The second report followed receipt of the AI response. It summarises and responds to the individual AI response items and recommends that permission be granted subject to 15 No. conditions. The recommended conditions are consistent with the Planning Authority's decision.

3.2.3. Other Technical Reports

A **Roads Department** report dated 26<sup>th</sup> May 2021 has been provided, which outlines no objection to the development subject to recommended conditions.

### 3.3. Prescribed Bodies

- 3.3.1. The Planning Authority's report indicates that Irish Water and the HSE Environmental Health Office were consulted on the application but did not make a submission.

### 3.4. Third Party Observations

- 3.4.1. A single third-party letter of observation was received, the issues within which can be summarised as follows: -
- Concerns regarding effluent treatment at adjacent property.

## 4.0 Planning History

- 4.1.1. I did not encounter any historic planning records pertaining to the site.

### Relevant nearby planning history

- 4.1.2. There are extensive planning records pertaining to housing development in the vicinity of the site. Those in closest proximity to the site include: -

1850722 – *Lands to the south-west*: Permission granted on 3<sup>rd</sup> October 2018 for a house, garage, septic tank and associated works.

0940295 – *Lands to the west*: Permission granted on 1<sup>st</sup> December 2009 for a house, garage and septic tank. Permission was subsequently granted under Reg. Ref. 1450173 for an extension of duration of the permission.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The site is in a rural, unzoned part of County Donegal. Map 6.2.1 'Rural Area Types' identifies that the site is in an area under strong urban influence.
- 5.1.2. Section 6.3 contains the rural housing strategy and of relevance to the appeal, it states that in areas under strong urban influence, one-off rural generated housing will be facilitated subject to compliance with all relevant policies and provisions of the plan. Relevant policies include: -

**RH-P-1:** It is a policy of the Council that the following requirements apply to all proposals for rural housing:

1. 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;
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 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/or approved 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-P15;
5. Any proposal for a new rural dwelling which does not connect to a 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 Environmental Protection Agency codes of practice;
6. Proposals for individual dwellings shall be subject to the flood risk management policies of this Plan.;
7. In the event of a grant of permission the Council will attach an Occupancy condition which may require the completion of a legal agreement under S47 of the Planning and Development Act 2000 (as amended).

**RH-P-2:** It is a policy of the Council to consider proposals for a new rural dwelling which meets a demonstrated need (see Policies RH-P-3–RH-P-6) provided 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 the rural area;
2. A proposed dwelling shall not create or add to ribbon development (see definitions);
3. A 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 of other rural dwellers or would constitute haphazard development;
4. A proposed dwelling will be unacceptable where it is prominent in the landscape; and shall have regard to Policy T-P-15;
5. A proposed new dwelling will be unacceptable where it fails to blend with the 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 to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings (as elaborated below).

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

**RH-P-9:** It is a policy of the Council to seek the highest standards of siting and architectural design for all new dwellings constructed within rural areas and the Council will require that all new rural dwellings are 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'.

- 5.1.3. According to Map 7.1.1 'Scenic Amenity' the southern part of the site is located in an area of 'High Scenic Amenity'. The northern part of the site, where the proposed house and garage are sited, is located in an area of 'Moderate Scenic Amenity'.
- 5.1.4. Section 7.1.1 of the development plan discusses landscape designations. For areas of High Scenic Amenity states that these areas *'are landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.'*
- 5.1.5. For areas of Moderate Scenic Amenity it states that the areas *'are primarily landscapes outside Local Area Plan Boundaries and Settlement framework boundaries, that have a unique, rural and generally agricultural quality. 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.'*
- 5.1.6. Policy NH-P-7 is relevant to the development. It states: -
- NH-P-7:** Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) 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.

## 5.2. National Planning Policy Framework

- 5.2.1. National Policy Objective 19 is of relevance to the proposed development. It requires the following:
- 'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*



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

### **5.3. Sustainable Rural Housing Guidelines for Planning Authorities**

- 5.3.1. The Guidelines identify a number of rural area typologies and accompanying Map 1 provides an indicative outline of these area typologies. According to this indicative map, the subject site is in an ‘area under strong urban influence’. It is noted from the Guidelines that this map is an indicative guide to the rural area types only and that the development plan process should be used to identify different types of rural area.
- 5.3.2. For areas under strong urban influence, the Guidelines outline that the development plan should *‘on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.’*
- 5.3.3. The Guidelines require a distinction to be made between urban and rural generated housing needs, in the different rural area types. In relation to the identification of people with rural generated housing needs, the Guidelines refer to ‘Persons who are an intrinsic part of the rural community’ and ‘Persons working full-time or part-time in rural areas. Of relevance to this appeal, ‘Persons who are an intrinsic part of the rural community’ are identified as having *“spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and*

*running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes.”*

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

- 5.4.1. The site is not located within a European site. The closest such site is Leannan River SAC (Site Code 002176), which is approx 4.1km north-west of the site.

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

- 5.5.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
  - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- 5.5.3. The subject development comprises a proposed house, effluent treatment system and associated site works, on a site of 0.348ha. It falls well below both of the applicable thresholds for mandatory EIA, as set out above.
- 5.5.4. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, it is considered that there is no real likelihood of significant effects on the environment. 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. The grounds of appeal can be summarised as follows: -

- There is no in-principle objection to the development.
- Reference is made to an application made by the appellant's daughter, Reg. Ref. 2151393, which will be prejudiced by the proposed development.
  - The Council have stated within the Planning Report that it will seek to restrict the access lane for the appellant's daughter, to that access coloured yellow. This is the access to the appeal site and is owned by a third party.
  - The appellant anticipates that her daughter will also be required to access via this third party-controlled access, to which they have no ownership or right of way access to.
  - The landowner has not consulted with the appellant regarding future use of the access.
  - A legal agreement should have been put in place to allow the applicant's daughter to use the access, prior to a grant of permission. Reference is made to previous litigation with the third-party landowner.
  - Should the applicant's daughter be allowed to take access from the lane that is in their control, there would be no concerns regarding this proposal. This access can run parallel to the access the subject of this application and there is room for landscaping and the creation of a bellmouth access, if needed.
- The access route proposed as part of this development appears to have truncated part of an on-site percolation area for the house to the west of the proposed house.

## 6.2. Applicant Response

6.2.1. The applicant made a submission on 21<sup>st</sup> December 2021, the contents of which can be summarised as follows: -

- The applicant's connection to the area is outlined and it is their wish to build a home in the area.
- Access to the appellant's daughter's site

- The third-party owner of the access lane is willing to enter discussions with the appellant's daughter regarding the granting of access to her site from this lane.
- The appellant's daughter's willingness or otherwise to use third party lands to access their lands should not jeopardise the proposed development.
- There is no objection to the appellant's daughter using a separate access to their site
- Sewerage concerns
  - A map showing the location of all septic tanks and percolation areas within 100m of the was site was provided at the additional information stage and it was noted by the Planning Authority that adequate separation distances are maintained.
  - The site suitability assessment report provided with the application shows that the site is suitable for a septic tank system.
- Reference is made to the cost of preparing the planning application documents.

### **6.3. Planning Authority Response**

6.3.1. The Planning Authority made a submission on 13<sup>th</sup> January 2022, the contents of which can be summarised as follows: -

- The majority of issues raised within the appeal have been addressed within the Planning Reports on the application.
- Duality of accesses
  - The Planning Authority's overarching consideration is to close off the existing cluster of development that is established in the vicinity. The provision of separate accesses in not acceptable due to the suburban appearance and visual impact. The Planning Authority considers the most northerly access road would be appropriate as it allows for screen planting, limiting its visual impact.
  - The matter of dual roads is not a direct consideration in this instance, as only the proposed development is being considered.

- It is not within the Planning Authority's remit to require a third-party landowner to grant a right of way to the appellant's daughter. The Planning Authority understands that an attempt has been made to facilitate an agreement, without resolution.
- Sewerage
  - A site layout drawing was provided at the additional information stage, which identifies the location of septic tanks and percolation areas in the vicinity of the site. No truncation of a percolation area is identified by this drawing.
  - It is noted that no documentary evidence has been provided in support of this claim.
- The Board is requested to uphold the decision to grant permission.

#### 6.4. **Observations**

6.4.1. None

#### 6.5. **Further Responses**

6.5.1. None.

### 7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal in detail, I consider the main planning issues to be considered are:

- Compliance with the rural housing strategy,
- Design, layout and residential amenity,
- Access,
- Drainage,
- Appropriate assessment.

#### 7.2. **Compliance with Rural Housing Strategy**

- 7.2.1. The subject site is located c.5.2km south-west of Letterkenny, in an area identified by the development plan as an 'area under strong urban influence'. Development plan policy RH-P-5 is applicable and it states that consideration will be given to proposals for new one-off rural housing in areas under strong urban influence from prospective applicants that have demonstrated a genuine need for a new dwelling house and who can provide evidence that they, or their parents or grandparents, have resided at some time within the area under strong urban influence in the vicinity of the application site for a period of at least 7 years.
- 7.2.2. National Policy Objective (NPO) 19 of the National Planning Framework is also pertinent to the appeal and it states that in areas under strong urban influence the provision of single housing in the countryside will be facilitated based on the core consideration of demonstrable economic or social need to live in the 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.
- 7.2.3. In this instance a supplementary rural housing application form has been provided, within which the applicant relies on a bona fide letter from an Elected Member of Donegal County Council as documentary evidence in support of the application. I note that a letter was provided by an Elected Member, dated 25<sup>th</sup> February 2021, which asserts the applicant's compliance with Policy RH-P-5. I further note that the Planning Authority deemed this to constitute adequate demonstration of a rural housing need.
- 7.2.4. From the information provided with the application and appeal, I do not consider the applicant has demonstrated compliance with policy RH-P-5 and NPO19 and in particular has failed to provide adequate information to substantiate an economic or social need to live in this area. I do not consider a letter of support from an Elected Member constitutes an adequate basis from which consider a grant of permission. A refusal of permission is recommended on this basis.
- 7.2.5. Policy RH-P-2 also applies to rural housing proposals and it requires that proposed rural houses shall avoid the creation or expansion of a suburban pattern of development in the rural area and shall not create or add to ribbon development. It was evident on my site visit that there is pressure for rural housing in the area. In my opinion the area displays evidence of ribbon development and a suburban pattern of

development. I note that the Planning Authority's planning report dated 29<sup>th</sup> June 2021 describes the area as an existing cluster.

7.2.6. There are nine houses on the north side of this section of the R250 that front onto the road and there are additional backland houses further north of these houses. In the time since the subject application was submitted, a further application for a proposed house on lands immediately to the south was submitted (Reg. Ref. 2151393 refers) and was withdrawn prior to a decision being made.

7.2.7. I acknowledge that the Planning Authority provided detailed advice as part pre-planning discussions and further required the submission of additional information, with the intention of restricting further housing development in the area but, in my view, a grant of permission would further extend the suburban pattern of development in the area, contrary to Policy RH-P-2. A refusal of permission is also recommended on this basis.

### 7.3. **Design, Layout and Residential Amenity**

7.3.1. As I have already outlined, the proposed house was amended at the additional information stage in relation to its proposed ridge height and the proposed finished floor level. The proposed house is a four-bedroom dormer bungalow with a stated floor area of 214.48sqm.

7.3.2. I have given consideration to the proposed internal layout of the house and note that it is adequately sized, in accordance with the recommendations of the *Quality Housing for Sustainable Communities* (2007) guidelines, as referenced by the development plan.

#### Neighbouring houses

7.3.3. There are a number of houses in the vicinity, including to the west, south-west and south. For housing to the south and south-west, which are in front of the proposed house, the sloping topography of the land and the presence of dense vegetation adjacent to the south/south-west site boundary provide adequate screening protection between properties. No overlooking issues arise.

7.3.4. For the house to the west, I consider the proposed house will have an acceptable relationship to it. The site layout drawing contains indicative landscaping details and I note that the shared boundary with this adjacent house would be landscaped.

Should the Board decide to grant permission, I recommend a condition be attached requiring the applicant to agree landscaping proposals with the Planning Authority

#### **7.4. Access**

- 7.4.1. Access is proposed from the R250 via an existing stone track that leads up the steep incline and which also provides access to the west-adjointing house and adjacent farmland. The proposed site access is accessed from this track and it is shown to route along the south and east boundaries of the neighbouring property. Details of the proposed make-up of the access have not been provided.
- 7.4.2. I note that the Planning Authority requested the applicant to provide for access to the south-adjointing lands that were the subject of application Reg. Ref. 2151393 from the proposed access, in order to avoid a proliferation of accesses in the area. Such provision has not been confirmed. The appellant objects on the grounds that, in view of the Planning Authority's stated requirement, a grant of permission for the proposed development would jeopardise the future development of the south-adjointing lands, which have been the subject of application Reg. Ref. 2151393 by the appellant's daughter.
- 7.4.3. I have previously outlined my concerns regarding the suburban pattern of development in the area and I agree with the Planning Authority that the proliferation of accesses such as that proposed contributes to the suburban pattern of development in the area. I have previously recommended a refusal of permission on this basis.
- 7.4.4. I note the appellant's concerns regarding the means of access to the south-adjointing lands, however; each appeal must be considered on its individual merits and there is no means by which the Board could require access to third party lands to be reserved, in the manner requested. I consider it would be unjustified to refuse permission on the basis of this issue.
- 7.4.5. Regarding the access from the R250, I note that the Planning Authority initially identified a requirement to provide visibility splays of 3m x 160m in both directions but subsequently deemed the identified splays of 3m x 160 north-west and 3m x 145m south-east to be acceptable, following receipt of the Roads Department's comments. In view of the Roads Department's confirmation of acceptability, I consider the identified splays are acceptable.



## 7.5. Drainage

### Foul drainage

- 7.5.1. The development includes the provision of a combined secondary and tertiary wastewater treatment system and infiltration system. The Site Suitability Assessment Report identifies the category of aquifer as 'poor', with a vulnerability classification of 'extreme'. Table E1 (Response Matrix for DWWTs) of the EPA Code of Practice Domestic Wastewater Treatment Systems identifies an 'R2<sup>1</sup>' response category i.e., acceptable subject to normal good practice.
- 7.5.2. The Report indicates that a trial hole with a depth of 2.1m recorded 400mm of gravelly sandy clay and 1100mm of gravelly sandy silt/clay. The trial hole evaluation sheet states that the water table was encountered at 1.5m and that bedrock was not encountered. The Site Characterisation Form states that an adequate depth of unsaturated subsoil is not available to facilitate a percolation/polishing system located entirely below the existing ground level and drawing number PCE2821/002 indicates that this part of the site would be raised by up to c.1m.
- 7.5.3. Regarding site drainage characteristics, I note that a Site Characterisation Form from the old 2009 EPA Code of Practice has been provided, which does not contain a completed Step 4, the T-test result. The result of the T-test therefore has therefore not been confirmed. I note that drawing number PCE2821/002 indicates a T value of 61.98.
- 7.5.4. As I am recommending refusal of permission on other substantive grounds, I have not pursued this issue further. The Board may however wish to give further consideration to this, as a new issue, should they be minded to grant permission.

### Surface water drainage

- 7.5.5. Surface water is identified on the site layout drawing as draining to an existing open drain, adjacent to the south-east site boundary. I noted on my site visit that this open drain primarily routes parallel to the east/south-east field boundary and cuts into the field at the south-east corner.
- 7.5.6. The site layout drawing indicates a surface water pipe being provided to the point of discharge to this drain. The pipe route includes lands that are outside of the red line application site boundary. As I am recommending refusal of permission on other

substantive grounds, I have not pursued this issue further. The Board may however wish to give further consideration to this, as a new issue, should they be minded to grant permission.

## 7.6. **Appropriate Assessment**

### Appropriate Assessment Screening

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

- 7.6.1. 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*

- 7.6.2. A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

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

- 7.6.3. 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).
- 7.6.4. 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*

- 7.6.5. The development is described at Section 2 of this Report. In summary, permission is sought for construction of a dwelling, domestic garage and wastewater treatment system, together with associated site works. The site has a stated area of 0.348ha and it consists of a part of a larger agricultural field that is set on a steep incline. The site is located at Doon Glebe, west of Letterkenny, and is accessed from a private stone track that leads up the incline from the R250 Regional Road. Foul drainage is proposed to drain to a combined secondary and tertiary wastewater treatment system and infiltration system and surface water is proposed to drain to an existing open drain that is adjacent to the south-east site boundary.

7.6.6. Taking account of the characteristics of the proposed development, in terms of its location and the scale of works, I consider the following aspects of the development require examination:

- Impact on water quality within a European site arising from surface water discharges from the site containing suspended solids and/or pollutants.

#### Submissions and Observations

7.6.7. The submissions from the appellant, applicant and Planning Authority are summarised as Section 6 of my Report.

#### European Sites

7.6.8. The site is not located within a European site. Sites within a potential zone of influence are: -

- Leannan River SAC (Site Code 002176), c.4.1km north-west
- Lough Swilly SAC (Site Code 002287), c.6.7km east.
- Lough Swilly SPA (Site Code 004075), c.7.7km east.
- Derryveagh and Glendowan Mountains SPA (Site Code 004039), c.8km north-west
- Cloghernagore Bog and Glenveagh National Park SAC (Site Code 002047), c. 9km north-west
- Meentygrannagh Bog SAC (Site Code 00173), 9.2km south-west

7.6.9. There is an open drain that routes adjacent to the eastern boundary of the field, which flows southward, down the hill. The drain is not identified on available mapping but it is likely to drain into the River Swilly, on the south side of the R250, given the topography of the land. Available EPA mapping<sup>1</sup> indicates that the River Swilly flows eastward from this point, into Lough Swilly. There is therefore a potential hydrological connection between the subject site and Lough Swilly SAC and SPA.

7.6.10. There is no hydrological connection to the other European site within the potential zone of influence. In view of the smallscale nature of the development, together with the absence of a source-pathway-receptor connection to these sites, I am satisfied

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<sup>1</sup> <https://gis.epa.ie/EPAMaps/>

that there is no likelihood of significant effects on these sites. I have therefore not considered these sites any further in my assessment.

7.6.11. A summary of Lough Swilly SAC and Lough Swilly SPA are presented in the table below.

<b>European 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>
<u>SAC</u>			
Lough Swilly SAC (Site Code 002287)	Estuaries, Coastal lagoons, Atlantic salt meadows, Molinia meadows on calcareous, peaty or clayey-silt-laden soils, Old sessile oak woods with Ilex and Blechnum in the British Isles, Otter	c.6.7km	Hydrological connection
<u>SPA</u>			
Lough Swilly SPA (Site Code 004075)	Great Crested Grebe, Grey Heron, Whooper Swan, Greylag Goose, Shelduck, Wigeon, Teal, Mallard, Shoveler, Scaup, Goldeneye, Red-breasted Merganser, Coot, Oystercatcher, Knot, Dunlin, Curlew, Redshank, Greenshank, Black-headed Gull, Common Gull, Sandwich Tern, Common Tern, Greenland White-fronted Goose, Wetland and Waterbirds	c.7.7km	Hydrological connection

Impact on water quality within a European site arising from surface water discharges from the site containing suspended solids and/or pollutants.

7.6.12. As I have outlined, surface water is proposed to drain to an open drain that is adjacent to the eastern boundary of the field and which flows southward, to the River Swilly.

7.6.13. There is the potential that surface water discharges from the site may contain suspended solids and/or pollutants but in such circumstances, I estimate that it is c.200m to the River Swilly and a further distance of over c.6.5km to the point of entry to the SAC/SPA. Surface water discharges from the site are likely to be smallscale, in view of the scale of development proposed, and I consider the likelihood of any such discharge being transferred to the European site is low. Indeed, in the event that a discharge from the site was transferred to the European site, the quantity is unlikely to be of such a scale that significant effects would arise. I am satisfied that the potential for likely significant effects on qualifying interests within the SAC can be excluded.

#### *Mitigation measures*

7.6.14. 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*

7.6.15. 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 of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Nos. 002287 or 004075, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.6.16. This determination is based on the following:

- The smallscale nature of the development, which does not require specialist construction methods.
- The separation distance between the subject site and the European sites.

## **8.0 Recommendation**

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

## 9.0 Reasons and Considerations

The subject site is located in an area under strong urban influence, as set out on Map 6.2.1 of the Donegal County Development Plan 2018-2024, where development plan policy RH-P-5, National Policy Objective 19 of the National Planning Framework (2018) and the Sustainable Rural Housing Guidelines for Planning Authorities (2005) each require applicants to have a demonstrated rural housing need and development plan policy RH-P-2 further requires that proposed housing shall avoid the creation or expansion of a suburban pattern of development and shall not create or add to ribbon development. In this instance the applicant has not demonstrated a rural housing need and in such circumstances, the proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. It is further considered that a grant of permission for additional housing in this location would result in the expansion of a suburban pattern of development in the area, contrary to development plan policy RH-P-2. The proposed development is therefore contrary to the provisions of the development plan, the National Planning Framework and the Sustainable Rural Housing Guidelines for Planning Authorities and is also contrary to the proper planning and sustainable development of the area.

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Barry O'Donnell  
Planning Inspector

21<sup>st</sup> March 2022.