



An
Bord
Pleanála

Inspector's Report

ABP-313901-22

Development	Construction of dwelling
Location	Doon Glebe, Newmills, Letterkenny, County Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2250080
Applicant(s)	Jonny McClintock.
Type of Application	Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party
Appellant(s)	Virginia Fox.
Observer(s)	None.
Date of Site Inspection	5 th December 2022.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.25ha and is located at Doon Glebe, approx. 5km west of Letterkenny, in a rural part of County Donegal. It is located on the L-5974, on a plot elevated above the R250 Letterkenny-Glenties Road, which lies to the south.
- 1.2. The L-5974 has a steep gradient in the area of the site falling from west to east and the subject site also falls from north to south.
- 1.3. The site forms part of a larger field that is enclosed by a mix of vegetation and post and wire fencing. There is a detached house to the west and additional rural housing further to the west.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises the construction of a house and garage, wastewater treatment system, site access and associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 2nd June 2022, subject to 17 No. conditions.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports dated 4th March 2022, 5th May 2022 and 3rd June 2022 have been provided, which reflect the Planning Authority's decision to grant permission. The first report states that the site is in an area that is under strong urban influence and that the development is acceptable in principle, in view of a letter of bona fida provided by a County Councillor. Concerns are expressed regarding the two-storey design and scale of the house and a request for additional information is recommended in this regard. Additional information is also recommended regarding proposed sightlines.

3.2.2. The second report followed receipt of the AI response and recommends that the applicant should be required to public further public notices. The third report followed the period of further public consultation. It recommends that permission be granted, subject to 17 No. recommended conditions.

3.2.3. Other Technical Reports

A **Municipal District Engineer** report dated 9th March 2022 has been provided, which advises that adequate sightlines have not been identified and that additional information should be requested.

3.3. Prescribed Bodies

3.3.1. The Planning Report indicates that Irish Water was consulted on the application but did not make a submission.

3.4. Third Party Observations

3.4.1. A number of third-party submissions were received, the issues raised within which can be summarised as follows: -

- Housing need,
- Suitability of site for wastewater treatment system,
- Proximity to adjacent private well,
- Access and road safety,
- Drainage,
- Public notices.

4.0 Planning History

4.1. I did not encounter any recent planning records pertaining to the site.

Relevant nearby planning history

20/50978: Site to the south-west: Permission granted to Virginia McClintock Fox for change of use of a barn to a house, together with wastewater treatment system, site access and associated site works.

5.0 Policy Context

5.1. Donegal County Development Plan 2018-2024

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 site 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 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.'*

5.1.5. 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 or adjacent to any designated European site. The closest such site is Leannan River SAC (Site Code 002176) which is c.5km north-west.
- 5.4.2. The River Swilly Valley Wood proposed Natural Heritage Area (Site Code 002011) occupies a number of designated areas to the north and west of the site and encroaches to within c.300m to the north.

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,
- 5.5.3. The proposed development consists of one house and associated site works including a wastewater treatment system. 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 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. The grounds of appeal can be summarised as follows: -

- The area surrounding the site is overdeveloped and this development will contribute to ribbon development.
- The applicant has no housing need. A letter provided by a County Councillor is inadequate.
 - The applicant already has a house and the proposal is speculative.
- The area is at capacity in terms of the proliferation of on-site wastewater treatment plants.
- The site assessment does not provide details of site conditions, as is required by the EPA code of practice. The site is not suitable for a wastewater treatment plant.
- Required sightlines from the site access cannot be achieved and the road itself is overloaded with traffic.
- The site is located on an unstable slope. The removal of trees as part of this development will further contribute to ground instability.
 - Trees on the site are also important from an environmental perspective.
- The development will lead to further such developments.

6.2. Applicant Response

6.2.1. A submission was received on 22nd July 2022, submitted on behalf of the applicant by MH Associates. Its contents can be summarised as follows: -

- Need
 - The applicant currently lives in Belfast and has recently retired but intends to live permanently at the subject site, building on lands inherited from his mother.
 - Compliance with development plan policy RHP5 has been demonstrated.
 - The applicant acknowledges that he owns a house at Portnablagh, but it is a holiday home.
 - The appeal, which is made by a family member, is vexatious and should be dismissed.

- The site is not located in an area designated for heritage protection, as is claimed by the appellant.
- Road safety
 - The access road measures 4.2m wide along the road frontage and is typical of many local roads in the county and leads to a priority junction with the R250 where vision lines of over 215m are available. There is no merit in the suggestion that the development will increase the danger on local roads.
 - Traffic surveys carried out indicate an average speed of 40km/h, which require visibility splays of 50m in each direction. Drawing No. 6521/FI001 shows that such visibility can be provided without traversing third party lands.
- The development does not contribute to ribbon development.
- Wastewater treatment
 - Claims that the site is unsuited to a wastewater treatment system are not supported by factual data. A site suitability report was submitted with the application and was accepted by the Planning Authority.
 - Other septic tanks in the area are unaffected by the proposed provision of a further WWTP on this site.

6.3. Planning Authority Response

6.3.1. The Planning Authority made a submission on the appeal on 22nd July 2022, the contents of which can be summarised as follows: -

- Issues raised within the appeal were addressed in the Planning Reports on the application.

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,
- Residential amenity,
- Access,
- Drainage,
- Appropriate assessment.

7.2. Compliance with the Rural Housing Strategy

7.2.1. The subject site is located c.5km 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 was provided with the application, wherein the applicant indicates that he has lived in the area all of his life and he also 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 23rd December 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. In appealing the Planning Authority's decision, the appellant argues that the applicant has no housing need, that they already have a house and that a letter provided by a County Councillor is inadequate to demonstrate a housing need. The appellant also expresses concern that the development would contribute to a pattern of ribbon development in the area.
- 7.2.5. In responding to the appeal, the applicant clarifies his housing need, stating that he currently lives in Belfast, has recently retired and wishes to build a house on the original family landholding.
- 7.2.6. I have given consideration to the information provided with the application and appeal and 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. The thrust of policy RH-P-5 indeed NPO19 of the NPF is that applicants must have a functional connection to the rural area and a demonstrable economic or social need to live in the area. In this context, I do not consider a letter of support from an Elected Member or a family connection to the area constitutes an adequate basis from which to consider a grant of permission in an area under strong urban influence.
- 7.2.7. Letterkenny is identified by the development plan Core Strategy as a 'Layer 1' settlement and it is allocated a proportion of planned housing growth over the plan period. It has an important role in the development of the county, providing important retail, residential, service and amenity functions. From my observations on site, the area surrounding the subject site displays pressure for rural housing and, in my view, the development of further housing without adequate justification serves to undermine the role of Letterkenny and may jeopardise its ability to act as a driver of population and economic growth.
- 7.2.8. 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 and the development would contribute to this pattern of development.

7.2.9. In conclusion, I consider that no functional connection to the rural area and no demonstrable economic or social need to live in the rural area have been demonstrated. To permit the development would therefore contravene local and national policy in relation to rural housing and I consider permission should be refused on this basis.

7.3. Residential Amenity

7.3.1. The proposed house has a contemporary two-storey, L-shaped design, with a ridge height of c.7m. It has a stated gross floor area of 239sqm. I am satisfied that the design and scale are acceptable in this location and do not give rise to impacts on the visual amenities of the area and does not give rise to unacceptable overlooking of the west-adjointing property.

7.3.2. The proposed internal layout of the house exceeds the minimum recommendations of the *Quality Housing for Sustainable Communities* (2007) guidelines, as referenced by the development plan.

7.4. Access

7.4.1. Sightlines of 2.4m x 50m are identified in both directions from the site access, along the L-5974. At the AI stage, following a request from the Planning Authority's Roads Department, the applicant provided the results of a traffic speed survey undertaken on 13th April 2022, which indicates the 85th percentile speed on the road is 40km/h. The submission argues that the proposed 50m sightlines are adequate, in the context of the observed speeds on the road.

7.4.2. The L-5974 provides access to rural housing and is likely to experience low traffic volumes. There is also a severe incline leading westward from the R250, which is likely to limit vehicle speeds. The speed limit on the road is unclear but I accept that practical speeds are likely to be low, in view of road conditions. I note in this respect that the Planning Authority accepted the proposed sightlines as adequate, following the AI response.

7.4.3. The provision of sightlines will require removal of a number of mature trees along the road frontage. I have previously commented on the pressure for housing in the area and the removal of trees from the roadside would, in my view, contribute to a wider pattern of urbanisation in the area. Should the Board be minded to grant permission,

they may wish to clarify the speed limit on the road, to ensure that proposed visibility splays are adequate. A requirement for increased sightlines would require additional tree felling.

7.5. Drainage

Foul Drainage

- 7.5.1. The development includes the provision of a tertiary treatment system and infiltration area. The proposed infiltration area involves removal of existing soils/subsoils from the area, importation of 600mm deep layer of imported soil and provision of a 300mm deep gravel infiltration layer over an area of 150sqm.
- 7.5.2. A Site Suitability Assessment Report was submitted with the application, prepared by Porter Consulting Engineers, which identifies the category of aquifer as 'Poor', with a vulnerability classification of 'Extreme'. Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice Domestic Wastewater Treatment Systems identifies an 'R2¹' response category i.e., acceptable subject to normal good practice. The Code of Practice includes the advisory that where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised.
- 7.5.3. The Site Suitability Assessment Report indicates that a trial hole with a depth of 2.3m recorded 300mm silt/clay, 1600mm of gravelly/sandy clay and 400mm of gravelly/sandy silt/clay. The water table is stated to have been encountered at a depth of 1.9m and bedrock is stated to not have been encountered. In relation to the percolation characteristics of the soil, a Step 5 sub-surface percolation test result of 68.29min/25mm was returned. In line with table 6.4 of the Code of Practice, this indicates the site is suitable for a secondary or tertiary treatment system.
- 7.5.4. Notwithstanding the results of the percolation tests, I have concerns regarding the suitability of the site for an individual wastewater treatment system. On my inspection I noted that the site was wet underfoot and on-site vegetation includes rushes in the area of the infiltration area, which further indicates wet ground conditions and poorly drained soil. I also note that the trial hole description (section 3.2 of the Report) identifies the presence of clay at all levels of the trial hole and the observed percolation value of the soil exceeds the 'typical percolation value' of 18-

43min/25mm that Table 5.2 of the Code of Practice identifies for 'silt/clay' soil types. The Code of Practice advises that the presence of clay affects the percolation characteristics of soils, with higher clay content increasing the percolation time.

- 7.5.5. The Board will note that treatment of on-site wastewater is reliant on a heavily engineered system, which requires ongoing maintenance, and involves site improvement works in the form of importation of soil with improved percolation characteristics. In the event that the site improvement works are not correctly completed (the Board will note that the Code of Practice advises that site improvement works are technically difficult to carry out and requires further testing), or the system is not suitably maintained, inefficient treatment of wastewater may arise, with potential consequential impacts for groundwater quality in the area.
- 7.5.6. Thus, based on the information submitted with the application and my own on-site observations, I am not satisfied that wastewater can be dealt with effectively on site, and as such, the proposed development would be prejudicial to public health. In my opinion, planning permission should be refused on this basis.

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 the construction of a house and garage, wastewater treatment system, site access and associated site works, on a site with a stated area of 0.25ha. Foul water is proposed to be treated within a tertiary treatment system and infiltration area and surface water is proposed to discharge to an open drain adjacent to the south-east corner of the site.

Submissions and Observations

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

European Sites

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

- Leannan River SAC (Site Code 002176), c.5km north-west
- Lough Swilly SAC (Site Code 002287), c.6km east.
- Lough Swilly SPA (Site Code 004075), c.7km east.

- 7.6.8. There are other European sites within a 15km search zone, but in view of the smallscale nature of the development, I am satisfied that there is no possibility of significant effects other than for those European sites in the vicinity of the subject site.

- 7.6.9. EPA drainage mapping¹ indicates that surface waters in the area of the site drain southward, toward the River Swilly. This reflects the topography of the land in the area, which sees land levels from north to south.

- 7.6.10. In view of the above, I am satisfied that there is no hydrological connectivity to the Leannan River SAC. The open drain at the south site boundary that is identified on the site layout drawing is not identified on the EPA drainage maps but, in view of the

¹ <https://gis.epa.ie/EPAMaps/>

topography of the area, it is likely to drain to the River Swilly, which itself discharges into Lough Swilly and the SAC/SPA complex.

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

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)
<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.6km
<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.7km

Evaluation of the Potential for Significant Effects

7.6.12. Construction activity may give rise to run-off from the site containing suspended solid or pollutant but the construction site is set away from the open drain to the south and the presence of intervening landform will provide a buffer for any overland water flows. Further, in the unlikely event of suspended solids and/or pollutants entering the drain, they would be a significant distance from the European sites and it is very unlikely that would be transferred to the European sites. In this context, I am satisfied that there is no real likelihood of significant effects on the Lough Swilly SAC/SPA complex.

7.6.13. For the operational phase, surface water is proposed to discharge to the drain to the south of the site, via piped connection. In view of the smallscale nature of the

development and the separation distance from Lough Swilly, I am satisfied that it is unlikely that suspended solids or pollutant content would be transferred from the site to Lough Swilly. Indeed, in the unlikely event that suspended solid or pollutant content were transferred from the site to Lough Swilly, I am satisfied that it would not be of sufficient scale to give rise to significant effects.

- 7.6.14. Foul water is proposed to drain to groundwater following treatment within the tertiary treatment system and infiltration area. I have expressed concern elsewhere in my report that the treatment system is heavily engineered and involves site improvement works and that in the event that site improvement works are correctly completed or the system is not suitably maintained, inefficient treatment of wastewater may arise, with potential consequential impacts for groundwater quality in the area. Notwithstanding these concerns, I am satisfied that in view of the separation distance from Lough Swilly, I am satisfied that it is unlikely that pollutant content would be transferred from the site to Lough Swilly. Indeed, in the unlikely event that suspended solid or pollutant content were transferred from the site to Lough Swilly, I am satisfied that it would not be of sufficient scale to give rise to significant effects.

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 and the separation distance between the subject site and the European sites.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. Having regard to: -

- The location of the site in an area under strong urban influence, as set out in the Donegal County Development Plan 2018-2024,
- The provisions of Policy RH-P-5 of the development plan, which requires applicants for new one-off rural housing in areas under strong urban influence to have a demonstrated housing need in the area,
- National Policy Objective 19 of the National Planning Framework which, for rural areas under urban influence seeks to facilitate rural housing proposals 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, and
- The documentation on file provided as part of the application and appeal.

The Board considers that, in the absence of a demonstrated housing need at this location, the proposed development would result in a haphazard and unsustainable form of 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. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the ground conditions encountered on the site, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and appeal, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a tertiary wastewater treatment system and the incorporation of site improvement works. The proposed development would, therefore, be prejudicial to public health.

Barry O'Donnell
Planning Inspector
9th January 2023.

