



An
Bord
Pleanála

Inspector's Report

ABP-314955-22

Development	Retention of access road and permission for a house, septic tank and associated site works.
Location	Umrycam, Buncrana, Lifford, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2152578
Applicant(s)	Peter Bradley.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Paul McLaughlin.
Observer(s)	None.
Date of Site Inspection	22 nd March 2023.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.97ha and is located on the southern side of the R238, in the townland of Umrycam, approx. 4km north of Bunrana, in north-east County Donegal. It is located in a rural area that is characterised by a large number of rural houses. There is also a commercial storage yard to the north-west.
- 1.2. The site comprises of a rectangular plot that forms part of a larger field and which has been fenced-off from the remaining section. It is located at the end of a narrow stone track and on land that falls away to the south, toward the Crana River. At the time of my inspection the site appeared to have been the subject of recent ground works and contained areas of waterlogging and a number of soil and stone deposits.
- 1.3. The stone track access also provides access to a place of worship, Kingdom Hall of Jehovah's Witnesses, and a detached house, both of which are located further west and in close proximity to the R238.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises retention of an access road and the proposed construction of a house, septic tank and associated site works.
- 2.2. The associated site works include a detached garage with a gross floor area of c.68sqm.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission on 29th September 2022, subject to 15 No. conditions.
 - Condition 2 restricted occupation of the house for a period of 7 years.
 - Condition 3(a) required provision of visibility splays of 3m x 160m in both directions from the site access.
 - Condition 3(b) required incorporation of a stop sign at the junction with the R238.

- Condition 3(c) required incorporation of a passing bay.
- Condition 4(a)(i) required submission of a revised site layout showing contours for proposed groundworks, steps and retaining walls.
- Condition 4(a)(ii) required that no ground within 2m of the northwest boundary of the main portion of the site shall be lowered by more than 1m.
- Condition 4(a)(iii) required that any retaining wall over 1.2m should have a steel safety rail.
- Condition 15 required payment of a financial contribution of €2,857.56 under the adopted development contribution scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports dated 11th February 2022 and 26th September 2022 have been provided. The first report requested additional information as follows: -

- Applicant to submit evidence of compliance with policy RH-P-5 of the development plan.
- Application to submit revised site layout drawing outlining proposals for upgrading the right of way, vision lines of 3m x 160m at the junction of the R238 and proposals to prevent discharge of surface water onto the public road.
- Applicant to provide drawings depicting specified levels.
- Applicant to submit revised site layout depicting proposed external paths and steps and minimum separation distances contained within the EPA Code of Practice.

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 which are consistent with those attached to the Planning Authority's decision.

3.2.3. Other Technical Reports

A **Roads Department** report dated 10th January 2022 has been provided, which states that vision lines onto the R238 are poor and that sightlines of 2.4m x 90-120m

are required. The report also requests that a layby should be incorporated on the existing right of way.

3.3. Prescribed Bodies

- 3.3.1. Irish Water was consulted on the application but did not make a submission.
- 3.3.2. The Planning Report indicates that the Department of Housing, Local Government and Heritage and An Taisce were consulted on the application and did not raise any objections. Copies of the submissions were not provided as part of the appeal documentation.

3.4. Third Party Observations

- 3.4.1. 1 No. third party submission was received, the issues raised within which can be summarised as follows: -
 - Site ownership,
 - Application form,
 - Biodiversity.

4.0 Planning History

1450370: Permission granted on 20th March 2015 for the construction of a two-storey house, septic tank and domestic garage.

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 being Lough Swilly SAC (Site Code 002287) which is c.2.9km west.
- 5.4.2. Umrycam Bog NHA (Site Code 002406) proposed Natural Heritage Area lies adjacent to the east site boundary.

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 therefore falls well below the applicable threshold for mandatory EIA.
- 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: -
- Application form
 - Ownership of the application site is questioned.
 - The applicant did not identify the close proximity of the site to Umrycam Bog NHA
 - It was pointed out to the Planning Authority that the applicant does not own the private access and did not provide a letter of consent regarding its use. This was not adequately addressed by the Planning Authority's assessment.
 - The proposed percolation area is located adjacent to an open drain.

- The site layout drawing does not include an unauthorised road which is contiguous with the road being retained. This road section will be used by the applicant.
- Compliance with policy RH-P-5 has not been demonstrated.
- Inadequate information has been provided regarding upgrading of the access track.
- Letters of consent provided for the provision of vision lines are inadequate.
- Additional information requested regarding existing and proposed levels was not provided.

6.2. Applicant Response

- 6.2.1. None received.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority made a submission on 28th November 2022, the contents of which can be summarised as follows: -

- Issues raised regarding site ownership and right of ways gave effect to standard S34(13) advice under the Planning Authority's decision.
- The required separation distance from the percolation area from a watercourse or open ditch has been conditioned. The open watercourse could alternatively be piped to satisfy the Code of Practice requirement.
- Proximity to the Umrycam Bog NHA was considered in the Planning Report.
- A condition was attached prohibiting any exit onto the public road network via the dangerous exit and the decision to grant permission related solely to development within the site.
- The Planning Authority otherwise relies on the report and recommendation of the Executive Planner, which has been provided to the Board.

6.4. **Observations**

6.4.1. None.

6.5. **Prescribed Bodies**

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:

- Site ownership,
- Compliance with the rural housing strategy,
- Design and residential amenity,
- Access,
- Drainage,
- Other issue; and
- Appropriate assessment.

7.2. **Site Ownership**

7.2.1. The applicant questions ownership of the site, stating that the applicant is not the registered owner and that written consent to the making of the application, by the registered owner, is required. Similar concerns were expressed in his submission to the Planning Authority.

7.2.2. The applicant has not responded to the appeal and the issue was not raised by the Planning Authority as part of its AI request.

7.2.3. I note the appellant's detailed submission on the matter but, with reference to question 10 on the application form, the applicant has asserted ownership of the site and the appellant has not provided any evidence that would lead to me a clear conclusion that this is not the case.

7.2.4. Section 5.13 of the *Development Management Guidelines* (DOEHLG, 2007) provides detailed guidance on the issue of land ownership disputes within planning applications, outlining that the planning system is not appropriate for resolving land disputes and that these are ultimately matters for the Courts. Further, it is advised that permission should only be refused on the basis of land ownership, where it is clear that the applicant does not have sufficient legal title. It is not clear from the information before me that the applicant does not have sufficient legal title to make the application and it would thus be unjustified to refuse permission on this basis.

7.3. **Compliance with the Rural Housing Strategy**

- 7.3.1. The subject site is located in the townland of Umrycam, approx. 4km north of Buncrana, in north-east County Donegal. It is in a rural 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.
- 7.3.2. 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.
- 7.3.3. In this instance a supplementary rural housing application form has been provided, within which the applicant states that they have lived in the for 7+ years and that they were previously granted permission for a house under Reg. Ref. 1450370 but that the permission was never enacted. Following a request for AI on the issue, the applicant provided a letter from a County Councillor, which was accepted by the Planning Authority as sufficient to demonstrate compliance with policy RH-P-5.
- 7.3.4. 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 thus recommended on this basis.

7.4. Design and Residential Amenity

- 7.4.1. The proposed house has a contemporary L-shaped design and appearance, presenting as a part two-storey and part single storey design. The house has a gross floor area of 331sqm and comprises an open kitchen/dining room, sitting room, toilet/hotpress and en-suite bedroom at ground floor level, together with 2 No. additional en-suite bedrooms, utility and plant room at 'basement' level.
- 7.4.2. The appellant has not expressed any concern regarding the proposed design and I see no reason to revisit this aspect of the development.
- 7.4.3. The development includes cut and fill site works. The 3D elevation contained on drawing D indicates that the area west of the front elevation will be lowered, as part of the construction of the two-storey element, and that the remaining area surrounding the house will be raised but the extent of these works is unclear. I note that as part of its decision on the application, the Planning Authority attached condition 4(a)(i) required submission of a revised site layout showing contours for proposed groundworks, steps and retaining walls. Should the Board decide to grant permission, I recommend a similar condition be attached to its Order.
- 7.4.4. Regarding the internal layout, I am satisfied 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.
- 7.4.5. There is an existing house on the access track but it is in excess of 150m from the proposed house. I am satisfied that there will be no impact on the amenity of the occupiers of this house.

7.5. Access

- 7.5.1. Access is proposed via a stone track that connects to the R238 and which also provides access to an existing house and a place of worship. The stone track leads southward from the R238 before turning eastward, where it connects to a secondary

track that is linked to a commercial site to the north. The site location plan identifies the section of the stone track closest to the R238 as a right of way.

- 7.5.2. Regarding the condition of the track, I note that the Planning Authority, in its AI request, sought proposals from the applicant for its upgrade including resurfacing and drainage proposals. In responding the AI request, the applicant proposed that the existing condition of the track would be maintained, with lay-bys incorporated to facilitate opposing traffic and also with suitable storm drainage. No further details of these proposals were provided.
- 7.5.3. The stone track is, in my view, only capable of accommodating a very low level of traffic and is likely to require upgrade in order to serve the development. For example, the track does not currently extend all the way into the site and at its closest point to the house incorporates large rocks that will be required to be removed in order to allow for carborne traffic. As I have recommended refusal on other substantive grounds, I have engaged any further with the issue, however; should the Board be minded to grant permission I would recommend they seek to clarify the upgrades to the track that are necessary to allow the proposed development proceed.
- 7.5.4. Site layout drawing No. 1221-2003-01F-VL provided at the AI stage identifies sightlines of 3m x 160m in both directions from the junction of the R238 and I note that the applicant provided letters of consent from third-party landowners in relation to maintenance of these sightlines.

7.6. **Drainage**

Foul Drainage

- 7.6.1. The development includes the provision of a combined secondary and tertiary wastewater treatment system including a 75sqm tertiary infiltration area. The Site Suitability Assessment Report submitted with the application identifies that the category of aquifer as 'poor', with a vulnerability classification of 'moderate'. Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10) identifies an 'R1' response category i.e., acceptable subject to normal good practice.

- 7.6.2. A trial hole with a depth of 1.9m encountered 400mm of peaty/clay topsoil, 400mm of gravelly/sandy silt/clay and 500mm of gravelly/sandy silt. The watertable is stated to have been encountered at a depth of 1.3m. Bedrock is stated to have not been encountered in the trial hole. In relation to the percolation characteristics of the soil, a sub-surface percolation value (T-test) of 43.50 min/25mm was returned. The Report concludes that the site is suitable for the installation of a secondary or tertiary treatment system and, in this context, proposes a combined system and 75sqm tertiary infiltration area. It is also proposed that subsoils under the proposed infiltration system should be loosened, to assist percolation.
- 7.6.3. Notwithstanding the results of the Site Suitability Assessment Report, I have concerns regarding the ability of the site to treat wastewater. On my site visit I encountered extensive waterlogging on the site and a substantial presence of vegetation including rushes that is indicative of wet conditions and poorly draining soil. In this context I would advise the Board that the soil also appeared to me to be peaty and I note that the Site Suitability Assessment Report characterised the top 300mm soil layer as a 'peaty/clay topsoil'. Section 5.4.2 of the EPA Code of Practice advises that peat soils are generally unsuitable for the disposal of treated wastewater due to the inadequate level of percolation they provide and the likelihood of ponding.
- 7.6.4. There is also an issue of non-compliance with the Code of Practice, as the appellant points out, in that the site layout drawing identifies that the proposed infiltration area is located within c.6m of an open drain. The Code of Practice states that an infiltration area should be 10m from an open drain. I acknowledge though that there is adequate space within the site to ensure compliance with the Code of Practice, by relocating the infiltration area, as was required by condition 14(b) of the Planning Authority's decision.
- 7.6.5. The proposed system is also heavily engineered and requires ongoing maintenance. If the system is not adequately maintained, inefficient treatment of wastewater on the site may arise and, in particular gives rise to potential discharge of pollutants to the Crana River and Umrycam Bog NHA, which are both in close proximity to the site.
- 7.6.6. Thus, to conclude my assessment, from my observations on site and notwithstanding the results of the Site Suitability Assessment, it is my opinion that

the site is unsuitable for the efficient and sustainable treatment of wastewater. I recommend that permission be refused on this basis.

Surface Water Drainage

7.6.7. Stormwater is proposed to drain to the open drain adjacent to the south site boundary, via piped connection. No further details of the system or the ability of the open drain to accommodate run-off has been provided. Should the Board decide to grant permission, I recommend a condition be attached requiring the applicant to agree the detailed layout of this system with the Planning Authority.

7.7. Other Issue

7.7.1. The appellant expresses concern that the application does not include an unauthorised road which is contiguous with the road being retained.

7.7.2. Whilst the appellant does not expressly identify the road in question, it appears to relate to the part of the stone track adjacent to the east site boundary that connects to a commercial yard to the north and which is not included within the application site. The Board has no function in relation to the investigation of unauthorised development complaints and this is a matter for the Planning Authority.

7.8. Appropriate Assessment

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

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

Background on the Application

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

Screening for Appropriate Assessment- Test of likely significant effects

7.8.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

7.8.4. 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

7.8.5. The development is described at Section 2 of this Report. In summary, permission is sought for retention of an access road and proposed construction of a house, septic tank and associated site works, on a site with a stated area of 0.97ha, in the townland of Umrycam, Bunrana, Co. Donegal. Foul drainage is proposed to drain to an on-site wastewater treatment system and surface water is proposed to discharge to an open drain that routes adjacent to the site.

European Sites

7.8.6. The site is not located within or adjacent to any designated European site, the closest such site being Lough Swilly SAC (Site Code 002287) which is c.2.9km west measured in a direct line. Lough Swilly SPA (Site Code 004075) lies further south within the Lough, encroaching to within c.6.75km of the site.

7.9. There are a number of other European sites within a 15km search zone but which are not hydrologically connected to the site. In view of the smallscale nature of the proposal and the absence of hydrological connections, I am satisfied that there is no possibility of significant effects arising, other than for Lough Swilly SAC and SPA.

7.9.1. Summaries of Lough Swilly SAC and SPA are outlined in the table below.

European Site (code)	List of Qualifying interest /Special conservation Interest
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
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

Evaluation of Effects

- 7.10. Both the construction and operational phases of the development have the potential to result in the discharge of suspended solid and/or pollutant content from the site, in view of the close proximity of the proposed development to an open drain that routes adjacent to the south boundary. The drain flows into the Crana River to the south, which itself flows into Lough Swilly at Buncrana.
- 7.11. The construction phase will involve site clearance and excavation works and has the potential to result in the discharge of surface waters that contain suspended solids but, in this event, such discharges are over 4km from the European sites following the route of the Crana River. I am satisfied that it is unlikely that any suspended solid or pollutant content will be transferred from the subject site to the European sites and, further, in the unlikely event of such transfer, the quantity is very unlikely to be such that significant effects would arise. I am satisfied that the issue can be excluded at this stage.
- 7.12. Treated effluent is proposed to discharge to groundwater and, in view of the topography of the site and the close proximity of the infiltration area to the open drain, may result in treated waters entering the drain and, thereafter, the Crana River. Again, such discharges are over 4km from the European sites following the route of the river and I am satisfied that it is unlikely that any pollutant content will be transferred from the subject site to the European sites. In the unlikely event of such transfer, the quantity is very unlikely to be such that significant effects would arise. I am therefore satisfied that the issue can be excluded at this stage.

Screening Determination

- 7.12.1. 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 sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.12.2. This determination is based on the following: -

- The smallscale nature of the proposal and the separation distance between the subject site and the European sites

8.0 Recommendation

8.1. I recommend that permission and permission for retention 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 proprietary wastewater treatment system. In the absence of adequate treatment of wastewater on the site, the proposed development would be prejudicial to public health.

Barry O'Donnell
Planning Inspector

6th April 2023.