



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315642-23

#### Development

Demolition of existing dwelling house and construction of a replacement dwelling house, detached garage, septic tank/sewage treatment system and associated site development works.

#### Location

Kinletter, Ballybofey, Lifford PO, Co.Donegal.

#### Planning Authority

Donegal County Council

#### Planning Authority Reg. Ref.

22/51809

#### Applicant(s)

Margaret Breen

#### Type of Application

Permission

#### Planning Authority Decision

Grant, subject to 18 conditions

#### Type of Appeal

Third Party -v- Decision

#### Appellant(s)

Patrick Boyle.

#### Observer(s)

None

**Date of Site Inspection**

9<sup>th</sup> August 2023

**Inspector**

Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located c. 3km to the south of Ballybofey/Stranorlar on elevated/rising lands. This site is accessed off the local road network: its south-western roadside boundary abuts the L-2964-1.
- 1.2. The site itself is of regular shape and it extends over an area of 0.26 hectares. Its southern corner adjoins the junction between the L-2964-1 and a short cul-de-sac, from which it is accessed. (This cul-de-sac also accesses a farmyard and dwelling house further to the north-east and the east of the site). The site extends to the north-west and to the north-east, sloping downwards gently in both directions. Its northwestern portion has been the subject of recent land drainage works.
- 1.3. The site presently accommodates a 64 sqm bungalow of simple rectangular form under a double pitched roof. This bungalow is sited in the north-eastern portion of the site, and it is accompanied by a small outbuilding adjacent to its northernmost corner.
- 1.4. The bungalow's principal elevation faces south, and it overlooks an open gravelled area between it and the cul-de-sac. To the east of this area, the site is enclosed by means of a hedgerow, which returns along the site's north-eastern boundary, and to the west by a mound, which continues along the south-western boundary with the local road. Towards the western corner of the site there is a break in this mound and an access point to the north-western portion of the site. Several trees grow on either side of this access point. The north-western boundary of the site adjoins a residential property, beyond which there is another residential property. This boundary is marked by a stepdown in levels and an intermittent hedgerow. The remaining boundaries are enclosed by hedgerows and a timber post and wire agricultural fence.

## 2.0 Proposed Development

- 2.1. Under the proposal, the existing bungalow on the site would be demolished and a replacement 187.5 sqm dwelling house would be constructed. This dwelling house would afford three-bed/six-person accommodation. It would be of one-and-half storey form with a centrally sited single storey return. The dwelling house would be sited largely to the south-west of the site of the existing bungalow. Its main body

would exhibit a traditional design style with a symmetrical array of openings and features on its front and side elevations. The return would exhibit a contemporary design style with the use of rectangular forms and openings.

- 2.2. The proposed dwelling house would be accompanied by a freestanding garage, which would be sited to its north-east. Its garage door would face north-west, and it would be served by a driveway that would meander through the site from the access point on the south-western boundary, which would be formally laid out as a domestic entrance way.
- 2.3. The proposed dwelling house would be connected to the public water mains, and it would be served by a new on-site wastewater treatment system with an accompanying sand polishing filter, which would be installed adjacent to the northern corner of the site. The applicant has proposed two options for the handling/discharge of stormwater from the site.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following receipt of unsolicited further information concerning surface water disposal and traffic numbers and speeds, permission was granted subject to 18 conditions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The case planner indicated that the applicant's option A for surface water disposal was preferable. He/she also indicated that, based on the submitted traffic survey, concessionary sightlines with "y" distances of 50m would be in order.

##### **3.2.2. Other Technical Reports**

- Irish Water: Advises that a water main connection exists.

#### **3.3. Third Party Observations**

See appellant's grounds of appeal.

## 4.0 Planning History

### Site

- 00/8378: Outline for 2 no. dormer dwelling houses and septic tanks (one with purfalo, too): Deemed to be withdrawn.

### Site to the south-east

- 15/50735: Dwelling house with attached domestic garage, septic tank/sewage treatment system and associated site development works: Permitted and implemented.

## 5.0 Policy Context

### 5.1. National Planning

- National Planning Framework

#### Objective 19:

*Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

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

- Sustainable Rural Housing Guidelines

### 5.2. Development Plan

Under the Donegal County Development Plan 2018 – 2024 (CDP), the site is shown as lying in an area of moderate scenic amenity (Map 7.1.1). The site is also shown

as lying in a stronger rural area wherein the following Policy RH-P-3 is applicable to proposed rural housing:

*It is a policy of the Council to consider proposals from prospective applicants in need of housing within an area defined as Stronger Rural Area, provided they demonstrate that they can comply with all other relevant policies of this Plan, including RH-P-1 and RH-P-2, where the applicant can demonstrate that they comply with one or more of the following:*

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

*♣ Persons with a vital link to the rural area by reason of having lived in this community for a substantial period of their lives (7 years minimum), or by the existence in the rural area of long established ties (7 years minimum) with immediate family members, or by reason of providing care to a person who is an existing resident (7 years minimum);*

*♣ Persons who, for exceptional health circumstances, can demonstrate a genuine need to reside in a particular rural location. This policy shall not apply where an individual has already had the benefit of a permission for a dwelling on another site, unless exceptional circumstances can be demonstrated. An exceptional circumstance would include, but would not be limited to, situations where the applicant has sold a previously permitted, constructed and occupied dwelling, to an individual who fulfils the bona fides requirements of that permission. New holiday home development will not be permitted in these areas.*

Policies RH-P-1 & 2 are set out below:

*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-P-15;*

*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).*

*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...*

Policy RH-P-7 sets out the CDP's replacement house policy as follows:

*It is a policy of the Council to consider proposals for the replacement of dwellings in rural areas, where:*

*(a) The Planning Authority is satisfied that the existing dwelling does not make any significant contribution to the built heritage of the area in question and;*

*(b) The replacement dwelling would be of a scale and form generally consistent with that of the existing house on the site and would not result in any significant additional visual impact over and above that arising as a result of the existing development on site and;*

*(c) Adequate provision can be made for wastewater treatment on site; and*

*(d) The proposed development would otherwise comply with all other relevant policies of the County Development Plan.*

### **5.3. Natural Heritage Designations**

- River Finn SAC (002301)

### **5.4. EIA Screening**

Under Item 10(b)(i) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2022, where more than 500 dwelling units would be constructed the need for a mandatory EIA arises. The proposal is for the development of 1 dwelling. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall well below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant begins by questioning the need to demolish the existing dwelling house on the site. He states that it was built under the “Specific Instance” housing scheme and upgraded c. 10 years ago. He contends that it is structurally sound and habitable and so it should be considered for renovation and extension rather than demolition.

The appellant proceeds to make the following points:

- Notwithstanding the findings of the case planner, the appellant continues to state that Japanese Knotweed is present on the site.
- The appellant states that the existing septic tank is sited on his land, and that, while it is rudimentary/unsatisfactory, it was used minimally. This septic tank would be replaced with a new WWTP, the percolation area to which would be sited close to two existing septic tanks. Given that that these tanks are down gradient from this percolation area, pollution may arise, especially with the envisaged increase in usage of the new WWTP.
- The circumstances surrounding the submission of the unsolicited further information are critiqued from the perspective of third parties and the opportunity afforded to them to view/comment upon the application.
- The appellant states that the applicant presently resides in a dwelling house within 850m of the site. He states that this dwelling house has a floorspace of 141 sqm, whereas the proposed dwelling house would have a floorspace of 187.5 sqm. These figures cannot be reconciled with the councillor’s contention that she would be downsizing.
- The appellant contends that part of the site denoted by a fence line across it is in his ownership. While he recognises that this is a civil matter that is before the Land Registry, the concern is expressed that the application, if permitted, would aid the applicant’s case.
- The proposed house type would not be in keeping with house types evident elsewhere in the area.

- The applicant has undertaken drainage works on the site, which have resulted in neighbouring lands being flooded. Concern is expressed that this situation may persist.

## 6.2. Applicant Response

The applicant responds to the appellant as follows:

- Attention is drawn to the construction and condition of the existing dwelling house, which mean that its retention would be ill advised. The proposed replacement dwelling house would be sited partially on lands adjoining the existing curtilage and so the opportunity to address the local road would be realised. Its design would combine vernacular and contemporary influences, and it would be finished in a variety of attractive materials.
- Under the CDP, the site lies within a stronger rural area. The applicant seeks to relocate to this site, to be near her daughter, who resides in the dwelling house to the east (permitted application 15/50735). However, as the proposal is to replace an existing dwelling house, the requirement to demonstrate a local housing need does not arise.

Under Policy RH-P-7, the proposed dwelling house would be appropriate, as the existing dwelling house does not make any significant contribution to the built heritage of the area, and its scale and form would be comparable.

Contrary to the appellant's claim, the existing septic tank is within lands under the applicant's control. Under the proposal, this antiquated tank would be replaced. Likewise, revised surface water drainage arrangements would be installed.

The proposed dwelling house would be the applicant's principal residence and so the CDP would be complied with.

- The applicant undertakes to comply with Condition No. 4, which addresses the possibility that Japanese Knotweed exists on the site.

The applicant states that the site includes folios DL5934F and DL92095F cited by the appellant. She is satisfied that this site is under her control. Any challenge in this respect is a civil matter.

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

- While visits to the site at the application stage did not result in the detection of Japanese Knotweed on the site, in line with the precautionary principle, Condition No. 4 was attached to address this issue should the need to do so be subsequently established.
- With respect to the possible proximity of existing septic tanks to the proposed percolation area, such tanks were not identified in the applicant's site characterisation form or by the visiting case planner. Furthermore, the planning history of the adjoining lands in question does not indicate their presence.
- With respect to surface water disposal, attention is drawn to Condition No. 3, which requires that the existing surface water drain be removed, and alternative drainage arrangements be installed that would allow disposal to an open sheugh along the south-western (roadside) boundary of the site.

### 6.4. **Observations**

None

### 6.5. **Further Responses**

None

## 7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the National Planning Framework (NPF), the Sustainable Rural Housing (SRH) Guidelines, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Rural settlement strategy,
- (iii) Visual amenity,
- (iv) Access,

- (v) Japanese Knotweed,
- (vi) Water, and
- (vii) Appropriate Assessment.

**(i) Legalities**

- 7.2. The appellant expresses concern over the lack of opportunity that was given to third parties to look at the applicant's unsolicited further information. In this respect, I note that, under Article 35(1) of the Planning and Development Regulations, 2001 – 2023, it is at the discretion of the PA whether such further information is judged to be significant and so needs to be subject of a public consultation exercise. I note, too, from the appellant's submission that he is aware of this further information.
- 7.3. The appellant also expresses concern that, as part of the site is the subject of a dispute that is before the Land Registry between the applicant and himself, any permission would place the applicant at an unfair advantage. In this respect, I note that Section 34(13) of the Planning and Development Act 2000 – 2023 makes the situation explicit, i.e., "A person shall not be entitled solely by reason of a permission under this section to carry out any development."
- 7.4. I conclude that there are no legalities that would prevent the Board from assessing/determining the application/appeal in the normal manner.

**(ii) Rural settlement strategy**

- 7.5. Under the CDP, the site lies within a stronger rural area, and so applicants for rural housing need to comply with Policy RH-P-3. The applicant states that she complies with this Policy insofar as she has lived in this rural area for in excess of 7 years, i.e., her present residence is in the neighbouring townland of Corgary, and she has lived there for over 20 years. She has submitted a councillor's letter of support, which states that her intention is to construct the proposed replacement dwelling house on the site, both to downsize and to be beside her daughter who lives in the vicinity of the site.
- 7.6. As the applicant proposes a replacement dwelling house, Policy RH-P-7 of the CDP is applicable, too. This Policy sets out four criteria. The first of these addresses the existing dwelling house and inquires as to whether it makes any significant contribution to the built heritage of the area. The second and third will be covered in

my discussion of visual amenity and water. The fourth requires that other relevant policies of the CDP be complied with.

- 7.7. With respect to the first criterion, the appellant draws attention to the existing dwelling house, which was built under the County's "Specific Instance" housing scheme, and which was upgraded c. 10 years ago. He contends that this dwelling house is structurally sound and so habitable and available for renovation/extension rather than demolition.
- 7.8. The applicant has responded by drawing attention to the existing dwelling house's state of disrepair. While she has considered the option of renovation, the construction type, which includes a narrow cavity wall, a low-pitched roof that is unsuited to conventional roof coverings, and a visibly defective sub-structure, militates against this option. Furthermore, the existing septic tank and stormwater disposal arrangements are both unsatisfactory. Accordingly, the applicant has discounted the option of renovation in favour of replacement.
- 7.9. I note that the existing dwelling house is not a protected structure, and it is not identified on the NIAH. I note, too, that, while this dwelling house is an example of the County's social history, its heritage interest would be captured by comprehensive drawings and photographs, which could then be archived.
- 7.10. With respect to the fourth criterion, the appellant contends that the applicant's present residence is smaller than the proposed replacement dwelling house on the site, and so he questions her claim to be downsizing. The applicant has not commented on this contention. I note that Policy RH-P-3 does not concern itself with the sizes of dwelling houses, as distinct from duration of residency within a locality. As the applicant meets the requisite residency period, she has a local rural housing need, and so she complies with this Policy, and, to that extent, with the fourth criterion.
- 7.11. I conclude that the applicant has a local rural housing need. I conclude, too, that there is no, in principle, objection to the demolition of the existing dwelling house on the site and its replacement with the one now proposed.

**(iii) Visual amenity**

- 7.12. The existing dwelling house on the site is a bungalow of simple rectangular form under a double pitched roof. This dwelling house faces the cul-de-sac to the south-east of the site. It is sited just inside the north-eastern arm of the site.
- 7.13. The proposed dwelling house would replace the existing one on the site. The main body of this dwelling house would be of one-and-a-half storey form under a double pitched roof. Its principal elevation would face the adjacent local road to the south-west. It would be sited centrally within the site, in a position that would overlap slightly with the footprint of the existing dwelling house.
- 7.14. The main body of the dwelling house would exhibit a vernacular influence with a symmetrical array of openings in the principal and side elevations. Traditional painted render and slate finishes would be specified, and features would include a rectangular front porch under an upper floor window encapsulated within a small gable and a bay window on the north-western side elevation.
- 7.15. The single storey return to the dwelling house would be centrally sited on the rear elevation. It would exhibit a contemporary influence with the incorporation of rectangular forms and openings under a flat roof with a western red cedar finish.
- 7.16. The siting, scale, and design of the proposed dwelling house would be appropriate to the size and shape of the site within its context. The two design influences would complement one another. While larger than the existing dwelling house, the proposed one would enhance the visual amenities of the area by replacing the somewhat utilitarian existing bungalow with an attractively designed dwelling house.
- 7.17. The proposed freestanding garage would be sited in a position adjacent to the eastern corner of the return. This garage would project beyond the building line of the side elevation of this return. I presume the rationale for this siting is the quest to safeguard the northerly views that would be available from the return across the valley of the River Finn towards the hills beyond. Insofar as the south-western boundary of the site would be the subject of tree planting, the relative prominence of the garage from the adjacent cul-de-sac would be eased.
- 7.18. I conclude that the proposal would enhance the visual amenities of the area.

**(iv) Access**

- 7.19. The applicant proposes to utilise an existing access point from the local road, which would be formally laid out as a domestic entrance way. Accordingly, the access from

the cul-de-sac to a gravelled area forward of the existing bungalow on the site would be closed up.

- 7.20. The local road, as it passes the site, is of relatively straight horizontal alignment between right hand bends further to the north-west and the south-east. This road is the subject of a gentle downwards gradient in a north westerly direction. Its carriageway is of less than two lane width, and it is subject to an 80 kmph speed limit.
- 7.21. Under unsolicited further information, the applicant submitted a Traffic and Transport Assessment (TTA) of the L-2964-1 as it passes the site. This TTA entails a survey of the stretch of the local road in question, which was undertaken on the morning of Monday 5<sup>th</sup> December 2022. The survey recorded a light level of traffic and an average vehicular speed of 40.79 kmph. Accordingly, under Table 3 of Appendix 3 of the CDP, sightlines at the proposed domestic site entrance need to be 2.4m x 50m in either direction. Under the proposed layout of the domestic site entrance, a tree on the north-western side of the existing access point would be removed and so these sightlines would be achievable.
- 7.22. The proposed access arrangements for the site would be satisfactory.

#### **(v) Japanese Knotweed**

- 7.23. The appellant contends that there is Japanese Knotweed on the site. The PA was unable to confirm this, but, based on the precautionary principle, it attached Condition No. 4 to its permission, which requires that a survey be undertaken and, if found, a remedial programme be executed. The applicant has raised no objection to this Condition.
- 7.24. During my site visit, I observed the vegetation on the site. I, too, am unable to confirm the presence of Japanese Knotweed. Nevertheless, the approach adopted by the PA commends itself, and so I conclude that a similar condition should be attached to any permission that the Board may decide to grant.

#### **(vi) Water**

- 7.25. The existing dwelling house on the site is connected to the public water mains, and the proposed dwelling house would, likewise, be connected to it.



- 7.26. The existing dwelling house is served by a septic tank. Under the proposal, this septic tank would be removed, and a new packaged wastewater treatment system (WWTS) and sand polishing filter would be installed.
- 7.27. The appellant acknowledges that the existing septic tank is rudimentary/unsatisfactory. However, he draws attention to the lightness of its use, which would contrast with that of the proposed WWTS. He also draws attention to the proposed siting, which would be adjacent to the common boundary between the site and his residential property. He states that this siting would be close to two existing septic tanks in his and the adjoining residential properties.
- 7.28. The PA has commented upon the appellant's critique. It notes that the applicant's site characterisation exercise did not identify the two septic tanks and that the case planner was unable to identify them. Likewise, the planning histories of the two residential properties in question do not indicate that they are close to the common boundary.
- 7.29. I note that, whereas the existing dwelling house on the site is presently vacant, it could be used again, and so the call on the existing septic tank would resume. As all the parties agree that this tank is unsatisfactory, the case exists for installing a new WWTS to a contemporary specification. I note, too, that the justification for the selected WWTS arises from the applicant's site characterisation exercise, which I will draw upon below in my own assessment of the site.
- The aquifer is poor and of extreme vulnerability. The groundwater protection response is R21. Appendix E of the EPA's CoP DWWTSs states that this response is "Acceptable subject to normal good practice."
  - Local groundwater flows in a northerly direction.
  - The trial hole was dug to a depth of 2m. Top-soil consists of gravelly silt clay. The sub-soil consists initially of gravelly silt clay above the water table at a depth of 1.1m. Thereafter, it consists of grey till material to a depth of 1.9m where bedrock occurs.
  - The "T" (sub-surface/depth of 600mm) and "P" (surface/depth of 400mm) test results were 57.57 min/25mm and 51.24 min/25mm, respectively.
- 7.30. In the light of the above characteristics, the applicant proposes to install a packaged WWTS and sand polishing filter, which would have an area of 15 sqm and be of

mounded form to enable a pipe invert of 0.3m above ground level to be achieved. The sand polishing filter would extend to a depth of 0.9m below ground level. A combined depth of 1.2m would thereby pertain, which would allow some additional headroom for any seasonal variation in the water table, i.e., 0.3m more than the minimum of 0.9m cited in Table 6.3 of the EPA's CoP DWWTs. The siting of the WWTS and the sand polishing filter would adhere to the relevant minimum separation distances cited in Table 6.2 of the CoP.

- 7.31. The applicant's site characterisation exercise refers to the need to ensure that surface water drainage arrangements for the site safeguard the proposed sand polishing filter, i.e., discharge should be off-site. Under unsolicited further information, the applicant presented two options as to how this objective might be achieved. Option A would route stormwater run-off to a sheugh on the far side of the local road from the site. Option B would route it, with his consent, to the neighbouring farmer's stormwater drainage system. The PA selected and conditioned Option A.
- 7.32. The appellant draws attention to recent drainage works on the site, which he contends have led to flooding elsewhere. I note that the applicant's site layout plan does not appear to show these works. The above cited Options are shown. In these circumstances, I consider that a comprehensive depiction of existing and proposed drainage arrangements should be conditioned, to ensure that clarity exists on how surface water would be dealt with.
- 7.33. Under the OPW's flood maps, the site is not identified as being the subject of any formally recognised flood risk.
- 7.34. I conclude that the proposed wastewater and stormwater arrangements for the redeveloped site would be satisfactory.

#### **(vii) Appropriate Assessment**

- 7.35. The site does not lie in or beside a European site. While the River Finn SAC passes 2.7km to the north of the site, I am not aware of any source/pathway/receptor route between the site and this SAC or any other European site in the wider area. Accordingly, no Appropriate Assessment issues would arise.
- 7.36. Having regard to the nature, scale and location of the proposed development, the nature of the receiving environment, and proximity to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as the proposed

development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

That permission be granted.

## 9.0 Reasons and Considerations

Having regard to the National Planning Framework, the Sustainable Rural Housing Guidelines, and the Donegal County Development Plan 2018 – 2024, it is considered that the applicant has a local rural housing need and that the proposed replacement dwelling house on the site would, in principle, be appropriate. The size, siting, and design of this dwelling house would enhance the visual amenities of the area. Access arrangements would be satisfactory, and no water or Appropriate Assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

## 10.0 Conditions

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the unsolicited further plans and particulars submitted on the 6th day of December 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.<br><b>Reason:</b> In the interest of clarity. |
| 2. | (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same                                                                                                                                                                                                                                                                                              |

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|    | <p>category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p><b>Reason:</b> To ensure that the proposed house is used to meet the applicant’s stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.</p> |
| 3. | <p>Prior to the commencement of development, a comprehensive scheme showing land drainage and stormwater drainage proposals for the site shall be submitted to, and agreed in writing with, the planning authority.</p> <p><b>Reason:</b> To prevent flooding and pollution.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 4. | <p>Prior to the commencement of development, survey drawings and a photographic record of the existing dwelling house shall be made, and submitted to, and agreed in writing with, the planning authority.</p> <p><b>Reason:</b> In order to establish a record of the dwelling house as an example of the County’s “Specific Instance” housing scheme.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 5. | <p>Prior to the commencement of development, the developer shall engage a suitably qualified person to:</p> <p>(a) Conduct a survey to determine, map and mark on the ground, any Japanese Knotweed on the site.</p> <p>(b) If Japanese Knotweed is found, the developer shall draw up and implement a control programme for the elimination of any Japanese Knotweed from the site. The control programme shall include a treatment</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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|    | <p>methodology, a time scale, measures to prevent spread, and disposal arrangements.</p> <p>(c) Prepare a validation report confirming that the remediation has been effective and that the site is free of Japanese Knotweed.</p> <p>The survey, any control programme, and any validation report shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development.</p> <p><b>Reason:</b> In order to satisfactorily deal with this invasive species.</p>                                                               |
| 6. | <p>Prior to the commencement of development, a scheme for the proposed domestic entrance and accompanying sightlines shall be submitted to, and agreed in writing, with the planning authority. This scheme shall comprise detailed drawings of the site's proposed south-western boundary treatment to a scale of 1: 50, and it shall include the domestic site entrance and sightlines depicted on drawing no. bmc/jm/22/115/101(b). Any overhead poles shall be set back in line with this boundary treatment.</p> <p><b>Reason:</b> In the interest of road safety.</p> |
| 7. | <p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling house and garage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development</p> <p><b>Reason:</b> In the interest of visual amenity.</p>                                                                                                                                                                                                                                                                        |
| 8. | <p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>                                                                                                                                                                                                                                                                                                                                                        |
| 9. | <p>The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) The augmentation of existing retained hedgerows along the boundaries of the site with native species of hedging, and</p> <p>(b) The planting of trees of native species at 3-metre intervals along the</p>                                                                 |

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|     | <p>north-western and south-eastern boundaries of the site and in the north-eastern and south-eastern corners.</p> <p>Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 10. | <p>(a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and arrangements in relation to the ongoing maintenance of the system, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Treated effluent shall be discharged to a raised percolation area which shall be provided in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.</p> <p>(c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the raised percolation area is constructed in accordance with the standards set out in the EPA document.</p> <p><b>Reason:</b> In the interest of public health.</p> |
| 11. | <p>The garage shall only be used as a domestic garage, which is ancillary to the dwelling house on the site.</p> <p><b>Reason:</b> In the interest of clarity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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| 12. | <p>The developer shall pay to the planning authority a financial contribution of €1,714 (one thousand, seven hundred and fourteen euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p> |
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Hugh D. Morrison  
Planning Inspector

28<sup>th</sup> August 2023