



An  
Bord  
Pleanála

## Inspector's Report ABP317456-23

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<b>Development</b>	Two Apartments and associated works
<b>Location</b>	Hornhead Road, Dunfanaghy, Letterkenny, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2350115
<b>Applicant</b>	Darren Tease
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Conditional grant
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Moira and Alan Harley
<b>Observers</b>	None
<b>Date of Site Inspection</b>	5 <sup>th</sup> December 2023
<b>Inspector</b>	Trevor Rue

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located in the town of Dunfanaghy and has a stated area of 0.10 hectares. It comprises a narrow strip of grass. Its southern boundary, which adjoins L-3213-1 Hornhead Road, is defined by a natural stone wall. Its western boundary abuts a private estate road known as Bayview which serves an established residential development of 10 houses to the north of the site. There is a moveable barrier at the entrance to the estate road from Hornhead Road.
- 1.2. There is a single storey dwelling to the east of the site, fronting Hornhead Road. That boundary is marked by a low block wall and a hedgerow. There is a Garda Station and telecommunications tower to the east of that dwelling.
- 1.3. There are low-rise single dwellings to the west of the service road. Protected structures, namely Holy Trinity Church and the associated Rectory, are located on the southern side of Hornhead Road. The Parish Hall is directly opposite the site. The site is within walking distance of local services, businesses and amenities.

## **2.0 Proposed Development**

- 2.1. Permission is sought for a single structure containing two semi-detached residential units which would be used for letting purposes. The principal elevation parallel to the estate road would be 11.3 metres long, while the gable elevation parallel to Hornhead Road would be 5.6 metres wide. The building would have a ridge height of 6.0 metres and the same finished floor level (FFL) as that of the existing dwelling to the east.
- 2.2. The proposed residential units would have a combined dining/kitchen/living space on the ground floor. The upper floor of each unit would contain a single bedroom and a bathroom. Each unit would have a floor area of 50 square metres.
- 2.3. Door and window openings are proposed in the front and both side elevations at ground floor level. The upper floor bedrooms would be lit by gable windows and also by roof lights on the front elevation only. A submitted drawing indicates that corrugated tin would be used to cover the roof, parts of the side elevations, on corners and above the doors, that the rest of the walls would be rendered in pure white and that there would be yellow doors and chain downpipes on the front elevation. A raised planter is also referred to but its position is not marked on the site layout plan.

- 2.4. The site location plan indicates that clear sightlines of 45 metres are available in both directions 3 metres back from Hornhead Road. Two vehicular accesses would be taken from the service road to parking areas to be created to the north and south of the building. A public footpath would be constructed as far as the southern parking area. A light would be positioned at the entrance to each of the parking areas.
- 2.5. A wooden fence 1.8 metres in height would be erected along the eastern site boundary for a distance of 30 metres. A garden/patio area would be provided to the east of the building and to the north and south of the parking areas and would be enclosed by fences 1.2 metres in height along the edge of the estate road. The site layout drawing shows tree planting on the northern site boundary and between the south garden/patio area and Hornhead Road.
- 2.6. Permission is also sought for a connection to the existing public water mains. It is proposed that wastewater and surface water be discharged to the public sewers via separate existing manholes located at the southern end of the site.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

On 1<sup>st</sup> June 2023, Donegal County Council decided to grant permission subject to 14 conditions. These included conditions restricting the use of the dwellings to permanent occupancy and requiring changes to the proposed materials.

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

Planning Reports

3.2.1. The **planner's reports** of 20<sup>th</sup> March and 30<sup>th</sup> May 2023 provided the reasoning for the authority's decision. She described the site and the proposed development, summarised the response of the internal Roads Service and the key points raised in third party submissions, set out the planning history and the policy context. Among the main issues she identified were the principle of development, siting and design, residential amenity, access, public health and built heritage.

3.2.2. The planner reached the following conclusions relevant to these matters:-

- The site's location within the urban settlement framework of Dunfanaghy favours this residential proposal. The ratio for holiday home use has been exceeded in the town. As the Council seeks to achieve a balance of housing stock to meet the needs and aspirations of people residing within the county, single bed units for permanent occupancy are open to consideration.
- A mix of modern materials is required to add a degree of visual interest to the elevations. The corrugated tin will however be omitted by condition.
- Given the separation distances between the proposed building and the existing neighbouring developments to the north and west, no major concerns arise in relation to any significant loss of privacy, overshadowing or overlooking.
- The proposed residential units would be located 3 metres from the boundary of the property directly to the east and 4 metres from its gable. However, it is not considered that the building would impact on the residential amenity of the property to the east due in part to its design. The garage is positioned adjacent to the boundary and the closest habitable room facing the boundary would be 13.5 metres from the proposed building. A fence is required on the eastern site boundary to negate any concerns about privacy. Due to its limited scale and height, the proposed building would not result in overshadowing or loss of light.
- As the subject site is within 50 kilometre per hour (km/h) control points, the required standard for forward visibility is 45 metres in both directions at the point of exit to Hornhead Road. The estate road is approximately 5.9 metres wide, which ensures that the development would not give rise to stacking on the road or generate difficult reversing manoeuvres.
- At present water treatment facilities and water availability are inadequate in Dunfanaghy. No information has been submitted as to whether treatment prior to discharge until upgrade works are carried out is an option.
- Having regard to the design proposed, the planning authority has no concerns as to the impact on nearby protected structures, subject to the retention of the natural stone wall that bounds the site to the south.

## Other Technical Reports

- 3.3.1 The Council's **Roads Service** recommended conditions concerning surface water and the width of the proposed footpath.
- 3.3.2. The Council's **Building Control Authority** pointed out that all works must comply with the Building Regulations and the Building Control Regulations.

## 4.0 Planning History

- 4.1. **99/3282:** On 1<sup>st</sup> September 1999, planning permission was granted to John Joe McGinley for the erection of one dwelling on the appeal site.
- 4.2. **00/2894:** On 14<sup>th</sup> September 2000, planning permission was granted to Mr McGinley for the erection of three dwellings.
- 4.3. **01/2165:** On 16<sup>th</sup> March 2001, planning permission was granted to Noel and Stanley Tease for the erection of three dwellings.
- 4.4. **04/2983:** On 28<sup>th</sup> June 2004, planning permission was granted by the Board to Mr McGinley for the erection of six dwellings on the adjoining site to the north.
- 4.5. **05/2132:** On 10<sup>th</sup> February 2005, was granted to Mr McGinley for the erection of a dwelling on the adjoining site to the north.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. Map 15.4 of the County Donegal Development Plan 2018-2024 shows the appeal site included within the town boundary of Dunfanaghy, which is identified as a Layer 2B Strategic Town where regeneration and renewal are prioritised. Policy UB-P-24 states that multiple and single holiday home units will be considered within settlement framework areas provided that the proposed development would not result in the total number of existing and permitted holiday homes within the settlement framework area exceeding 20% of the total existing and permitted housing stock.
- 5.1.2. Policy UB-P-10 is that proposals for new residential development shall demonstrate that a housing density appropriate to its context is achieved and provide for a

sustainable pattern of development whilst ensuring the highest quality residential environment.

- 5.1.3. Policy UB-P-11 requires proposals for residential development to provide for a mixture of house types and sizes in order reasonably to match the requirements of different household categories within the Plan area, including those groups with particular special needs. It states that the Council will seek to achieve a balance of housing stock to meet the needs and aspirations of the people residing within the Plan area.
- 5.1.4. Policy UB-P-12 seeks both to protect the residential amenity of existing residential units and to promote design concepts for new housing that ensures the establishment of reasonable levels of residential amenity.
- 5.1.5. Policy UB-P-13 states that multiple residential developments shall, in general:
- (a) on greenfield sites, include a minimum of 15% of the overall site area reserved as public amenity area; and
  - (b) in other cases, such as large infill sites or brown field sites include a minimum of 10% of the overall site area reserved as public amenity area.
- 5.1.6. Policy WES-P-11 states that where there is inadequate existing capacity within a waste water treatment plant to accommodate new multiple development the following will apply. Where the provision of capacity is imminent and there is an existing sewer with adequate hydraulic capacity, approval may be granted for an interim treatment plant that shall discharge treated effluent to the sewer.
- 5.1.7. Table 4 in Appendix 3 to the Plan sets a standard stopping sight distance of 45 metres where the design speed is 50 km/h. Table 6 specifies a requirement for two car parking spaces per dwelling house.

## 5.2. National Planning Policy

- 5.2.1. In the National Planning Framework 2040, National Strategic Outcome 1 is compact growth. This is explained as follows:

*“Combined with a focus on infill development, integrated transport and promoting regeneration and revitalisation of urban areas, pursuing a compact growth policy at national, regional and local level will secure a more sustainable future for our settlements and for our communities.”*

5.2.2. Paragraph 7.4 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, published by the Department for Environment, Heritage and Local Government in 2009, states that:

*“ ... at the rear of dwellings, there should be adequate separation (traditionally about 22 m between 2-storey dwellings) between opposing first floor windows. However, such rules should be applied flexibly: the careful positioning and detailed design of opposing windows can prevent overlooking even with shorter back-to-back distances.”*

5.2.3. “Sustainable Urban Housing: Design Standards for New Apartments was published by the Department of Housing, Local Government and Heritage in December 2022. Footnote 1 states that:

*“An apartment, for the purpose of these guidelines, may be defined as a self-contained residential unit in a multi-unit building with grouped or common access”.*

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

5.3.1. The appeal site is not located within a Special Conservation Area (SAC) or Special Protection Area (SPA). However, according to the planner’s report, it is located:

- 118 metres to the south of Horn Head and Rathclevan SAC;
- 703 metres to the south east of Horn Head and Fanad Head SPA; and
- 181 metres to the south of a proposed Natural Heritage Area.

### 5.4. **EIA Screening**

5.4.1 The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an environmental impact assessment report and carrying out of an environmental impact assessment may be set aside at a preliminary stage.



## 6.0 The Appeal

### 6.1. Grounds of Appeal

- There are serious concerns about the validity of the application. It does not comply with the Planning and Development Regulations 2001. No levels have been provided for the site and the service road and there is no site section or streetscape sketch to show how the proposed building would integrate with the existing dwellings. Distances between existing dwellings and the site boundary and proposed apartment block are not shown. Amenity areas of adjoining dwellings are not indicated. Site boundary vegetation is misrepresented. The route of the existing sewer pipe is not shown, nor is the entrance barrier. The size of the proposed street lights is not indicated. Elevations are not annotated with directional wording and dimensions.
- There were errors and omissions on the submitted application forms. The site notice was placed very low down and could easily be overlooked. Further information received by the Council was significant and should have been re-advertised in accordance with Regulation 35(1) of the 2001 Regulations.
- Open space is mandatory in residential development, the rule of thumb being 15% of the site area. The planning history indicates that inappropriate planning decisions were made with regard to open space. The appeal site is the only remaining open space in the residential development that uses the service road. It occupies an important location at the entrance to this housing scheme and provides a welcome urban design feature. The proposed development would eradicate this vital open space and lead to a loss of biodiversity.
- The town is losing services due to lack of permanent households and is over its holiday home quota. Although a permanent occupancy condition is included in the permission, the application form refers to letting. The proposed apartments do not reflect the family-type dwellings in the vicinity and are likely to be rented with more potential for nuisance such as noise.
- The proposal does not comply with the 2022 Apartment Guidelines in regard to storage space, ceiling heights, cycle storage and refuse facilities. It does not comply with requirements of the Building Regulations in respect of materials

and workmanship; ventilation; stairways, ladders, ramps and guards; and access for disabled people. It contravenes national guidance and policies and would set an undesirable precedent.

- The appellants' bungalow is next door to the appeal site in a quality residential area. The proposed development right beside the curtilage boundary is considered to be overdevelopment and would have a severe adverse effect on their residential amenities and the value of their property.
- The appellants' dwelling is only 1.22 metres from the centre of the existing boundary wall. The distance between the rear of the proposed building and the wall would be only 2.2 metres which would be reduced by the insertion of the proposed wooden fence. The recommended 22-metre separation distance between opposing above ground floor windows is not provided. The appellants' house would be only 3.42 metres from the rear elevation of the proposed apartment block.
- Due to its proximity, height and massing, the building would intrude visually on the appellants' private amenity areas. It would present a large blank wall without any architectural embellishment for ornamentation. It would be overbearing, cause overlooking and invade the privacy of the back of the house, the garden and outdoor seating area. The back windows would face directly on to their property. The situation is made worse by the fact that the ground is 340 millimetres higher on the appeal site than it is round the appellants' house, even though the same FFL is proposed.
- The existing hedgerow shown on the site layout plan is on the appellants' side of the boundary wall and finishes to the north of their house. A hedge or trees could never be planted where they would need to be, to block out the proposed apartments. The proposed fence would be unsightly and overbearing. The appellants are concerned about potential light spill on to their property.
- The proposed development would block out sunlight in the afternoon and evening from the back of the appellants' house, garden and outdoor seating space. There would be severe overshadowing at all times. Professionally prepared shadow drawings were submitted.

- What is proposed is likely to lead to road safety problems. Sightlines are shown at 45 metres each way but in previous applications they were shown at 68 metres. Only two car parking spaces are shown. There would be no parking for visitors, which would lead to parking on the carriageway. Cars would have to reverse into the parking spaces or out on to the service road. The closer space would be only 20 metres from the junction with Hornhead Road. All traffic to the 10 houses on the service road would pass the front doors of the proposed apartments where there would be no footway or privacy strip.
- The proposed apartment block may be built over an existing public sewer. The existing public sewerage system in Dunfanaghy, to which the apartments would connect, is at capacity and has operational problems.
- The proposed apartment block would impact negatively on the architectural integrity of the protected church and rectory. It would be inconsistent with the local pattern of development and out of keeping with the existing houses at the eastern end of Hornhead Road which are all similar in style and quite traditional.

## 6.2. Applicant's Response

- A digital survey of the site was carried out by GPS Mapping Limited and used to inform the proposed layout and in particular the FFL of the adjoining properties.
- It is evident from scrutiny of the previous permissions associated with this landholding that the appeal site is an infill site. Each house in the current development enjoys private open space.
- The submitted drawings are for planning purposes and not for building control. The items mentioned in the appellants' submission are non-material and can be amended without resubmitting planning documents. The first floor ceiling joist can be placed so as to ensure a head height of at least 2.4 metres. The door behind the stairs can be made to open in the opposite direction and a 400-millimetre clearance provided between the bottom step and the entrance door. A ground floor toilet will be provided for in the building control drawings.

- One can appreciate that where the occupiers of a property enjoy the privilege of having a vacant site adjacent to them, they get used to it. However, the claim that the proposal is overdevelopment does not stand up. Compact growth is supported by the County Development Plan and the National Planning Framework. There is a move afoot to encourage people to reside in settlements rather than to continue the sprawl of one-off units in the countryside and to use all the vacant sites in settlements.
- The planning condition stipulating that the units must not be used as holiday homes but as permanent homes is acceptable and would be adhered to. There is a need for long-term lets for persons from the area who would be competing with short-stay visitors.
- The 6-metre ridge height of the proposed building would be in keeping with the heights of properties in the vicinity. The appellants' property is 5.9 metres to ridge, whilst the properties in the Bayview estate are 6.8 metre high. The appellants' trees tower over their property and there is a three-storey Garda Station and a telecommunications tower with an estimated height of 25 metres directly to the east. It is therefore unreasonable to say that the proposed building would be overbearing.
- There would be no overlooking from the proposed building into the appellants' property. There would be no first floor windows on the rear elevation and the proposed 1.8-metre timber fence would fully restrict any vision from the ground floor rear windows.
- The closest part of the appellants' property to the appeal site is a garage. The apartments would be 9.5 metres from the living area of the house. The shadow casting images submitted with the appeal have not been informed by the mature trees, some evergreen, on the appellants' property. A slight shadow would be cast over the garage but not over the living accommodation. The garden is completely shaded by trees and high shrubs and the proposed building would lead to little or no loss of light to the back garden or house.
- Off-road parking spaces would be provided which would not hinder the movement of traffic within the estate. Cars could reverse into the spaces or drive in and park parallel to the service road. The parking spaces would be 4.9

metres wide whilst the length of a car is about 4 metres. Traffic moves slowly in the estate and drivers would be aware that vehicles may be exiting from houses. The road is not a public road or a through road and parking provision for all houses in the estate is similar to what is proposed.

- Whilst there are many instances where buildings have been erected over public sewers, it is intended to relocate the sewers and place them under the service road as shown on a revised site layout drawing. A connection agreement application would be made to Uisce Éireann.

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

The Council wishes to rely on the planner's reports and has no further comment.

### **6.4. Further Responses by the Appellants**

- It is questionable whether the proposed apartments would be of sufficient size to attract long-term residents. They would not be suitable for families or the elderly. This is not a development that would be adaptable to other needs. Occupancy conditions are notoriously difficult to enforce.
- The proposal contravenes the requirement for a density appropriate to its context. This multiple housing development should have 15% of the site allocated as public amenity. The small site available, without prejudice, should be developed with a small building.
- A revised plan should be requested showing that it is possible to accommodate an accessible ground floor toilet, entrance door and staircase to minimum building control standards and still provide functional apartments. The development must comply with Net Zero Energy Building requirements. Locations for heat pumps, water storage tank and solar panels should be shown. Heat pumps could cause further noise nuisance.
- The proposed upper floor windows in the gable would have views into the front and rear garden areas of the appellants' bungalow, which is the permanent home of their granddaughter and her partner.

- The existing trees to the rear (north) of the appellants' dwelling are not in the sun path. They mostly cast shadows in the other direction in the crucial months, January and June. None of the boundary vegetation obscures the midday and evening sunlight as the house is south and west facing. Trees and hedges can be cut and trimmed. The garage could be turned into living accommodation.
- Perpendicular parking is always a traffic hazard no matter how little traffic is on the road. Front doors opening on to the service road without a buffer zone would be a hazard to children.
- Other permitted developments had to provide a system for pre-treatment of sewage prior to discharging into the Dunfanaghy public sewer. Reference was made to a development of four commercial units and five dwelling houses at Pound Street, Dunfanaghy. A 6-metre-wide corridor free of development should be required next to public sewers.

## 7.0 Assessment

### 7.1. Issues

7.1.1 Having inspected the site and considered in detail the documentation on file for this Third Party appeal, it seems to me that the main planning issues are:-

- the validity of the application;
- the acceptability in principle of the proposed development at this location;
- the proposed design and layout;
- the amenity of neighbouring residents;
- road safety;
- public health; and
- built heritage.

7.1.2. I must also consider whether an appropriate assessment (AA) is required pursuant to the European Union Habitats Directive (92/43/EEC).

## **7.2. Validity**

- 7.2.1. Drawings submitted with the planning application show a site notice position on the site frontage adjacent to Hornhead Road. Even if it was placed low down, the appellants have suffered no prejudice. They were obviously aware of the application as they made submissions to the planning authority and lodged the current appeal.
- 7.2.2. The errors and omissions on the planning application forms were minor and would not have misled any careful reader. The site layout plan shows a temporary benchmark on Hornhead Road, the FFLs of three existing dwellings adjacent to the site and the FFL of the proposed apartment building. Distances to existing buildings and the site boundary can be scaled off. There is no requirement to show site boundary vegetation, amenity areas of adjoining dwellings, sewer pipes routes or the size of any proposed street lights.
- 7.2.3. The submitted elevations do not show the main features of buildings which would be contiguous to the proposed structure, although the site layout plan depicts the two-dimensional relationship clearly. The juxtaposition of the existing and proposed buildings was readily apparent when I visited the site. There is no requirement to annotate elevations with directional wording and dimensions but this information can easily be established from the submitted drawings.
- 7.2.4. The validity of a planning application is a matter for consideration by the planning authority. In this instance, the Council accepted the application as valid. Likewise, the decision as to whether further information submitted to the planning authority should be advertised is a matter for the authority. In this instance, the Council did not so require. In my opinion, the Council's judgments on these matters were not unreasonable. I am not persuaded that the application was invalid.

## **7.3 Acceptability in Principle**

- 7.3.1 There is no evidence that the appeal site was ever intended, reserved or used as open space to serve the existing residential development in Bayview. Each dwelling in that development has its own private open space. While the site provides a pleasant break in the built-up appearance of the locality, I am not persuaded that it is a vital design feature of importance to biodiversity. It seems to me that a suitably designed infill development would be consistent with the strategic objective of compact growth set out in the National Planning Framework 2040.

7.3.2. The Council's decision included a condition requiring the dwelling units to be used as permanent homes only. Holiday home use would require a separate grant of planning permission. Any breach of the condition could be reported to the Council, whose responsibility it would be to take enforcement action. It would not be appropriate, in my opinion, to restrict the tenure of the dwelling units, as opposed to their use. I am satisfied that the proposed development is acceptable in principle.

#### **7.4. Design and Layout**

7.4.1 While the word "apartments" appears in the description of the proposal, the proposed dwelling units do not fall within the definition of apartments to which the 2022 Apartment Guidelines apply, as they would not have grouped or common access. The submitted drawings are for planning purposes and not for building control and must be judged in a planning context.

7.4.2. It seems to me that in the context of surrounding development, the external appearance of the proposed building would be generally acceptable. However, I consider that corrugated tin would be completely out of keeping and must be replaced. The condition imposed by the Council would secure this.

7.4.3. In my judgment, the proposed building would fit comfortably on the site and would not constitute overdevelopment. The provision for private open space is adequate though not generous. I do not believe any useful purpose would be served by devoting part of the site area to public open space. I find the layout of the development acceptable.

#### **7.5. Residential Amenity**

7.5.1. The recommended 22-metre separation distance between opposing first floor windows has no relevance in this appeal, as it is not proposed to have first floor windows in the rear elevation of the building next to the appellants' property. The building would sit at right angles to their dwelling with a 1.8-metre-high fence in between it and their garage. Neither their garage nor the part of their dwelling used for living accommodation has gable windows facing the appeal site. Their front and rear garden areas are well vegetated. No undue overlooking would occur, therefore, even from the bedroom windows on the side elevations of the proposed building.

7.5.2. Having regard to the height and massing of the proposed building and the existing dwelling and to their intended juxtaposition, I am not persuaded that the former would have an overbearing effect the latter. I see no good reason to suppose that the privacy



fence would be overbearing or unsightly. As the rear garden of the existing property is already shaded by vegetation, I do not accept that the proposed building would add to overshadowing to any significant extent. The direction and luminosity of the proposed garden lights can be controlled by condition. I am satisfied that the proposed development would not have an unacceptable effect on residential amenity.

## **7.6. Road Safety**

7.6.1. The Council's Roads Service has not objected to the proposed layout. The proposed sightlines meet Development Plan standards. I am not persuaded that the distance between Hornhead Road and the first parking bay would be inherently unsafe. There would be space in each of the proposed parking bays for two cars side by side. It is not uncommon to have to reverse on to, or from, a road. Freedom from accidents can never be guaranteed because there is always potential for human error. However, in my opinion none of these matters is of such significance as to warrant the withholding of planning permission.

7.6.2. I agree with the appellants that front doors opening on to the service road without any kind of buffer would be a hazard to children. I consider that a 1.8-metre wide footpath should be constructed to the front of the proposed building with provision for radii at the entrances to the parking bays. This can be secured by condition and would require a slight setting back in the position of the proposed building.

## **7.7. Public Health**

7.7.1. The Council's planner noted in her report that water treatment facilities in Dunfanaghy are inadequate and that no information has been submitted as to whether treatment prior to discharge is an option until upgrade works are carried out. Although this matter was not included in the Council's request for further information, this is an application for multiple housing development to which Policy WES-P-11 of the Development Plan applies. I consider that the applicant should be required by condition to provide an interim treatment plant pending the upgrading of the public system.

7.7.2. The Council attached to its decision a condition requiring any proposals to build over or divert existing water or wastewater services to be submitted to Uisce Éireann for written approval. The need for a 6-metre-wide corridor free of development can be considered through that process.

## 7.8. Built Heritage

7.8.1 The proposed building, although opposite the Parish Hall, would not be seen in the same context as the protected Church and Rectory. In my opinion, the development would have no significant effect on built heritage.

## 7.9. Appropriate Assessment Screening

7.9.1. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, and the distance from the nearest European site, it is possible to screen out the requirement for the submission of a Natura impact statement and the carrying out of an appropriate assessment at an initial stage.

## 8.0 Recommendation

8.1. For the following reasons and considerations, I recommend that permission be granted, subject to conditions set out below.

## 9.0 Reasons and Considerations

9.1. Having regard to the fact that the appeal site is included within the town boundary of Dunfanaghy, which is identified as a Layer 2B Strategic Town where regeneration and renewal are prioritised, and to the emphasis placed on compact growth in the National Planning Framework 2040, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenity of property in the vicinity or have an adverse effect on road safety or public health. The development would therefore be in accordance with the provisions of the County Donegal Development Plan 2018-2024 and 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 further plans and particulars submitted to the planning authority on 12 <sup>th</sup> May 2023
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	<p>and by the site layout plan received by An Bord Pleanála on 21<sup>st</sup> July 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>(a) The dwelling units hereby permitted shall be used as places of permanent residence only and shall not be used as holiday homes or for any other purpose without the prior grant of planning permission.</p> <p>(b) Prior to the 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>(c) 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><b>Reason:</b> To limit the scope of the proposed development to that for which the application was made.</p>
3.	<p>Prior to the commencement of development, revised elevation drawings to a scale not less than 1:100 shall be submitted for written agreement to the planning authority omitting any use of corrugated tin. The roof and porticos shall be clad in slates or tiles and the walls shall be rendered. The development shall proceed in strict conformity with the agreed drawings.</p> <p><b>Reason:</b> To protect the visual amenity of the area.</p>
4.	<p>Prior to the commencement of development, a revised site layout plan to a scale not less than 1:250 shall be submitted for written agreement to the planning authority showing a footpath 1.8 metres in width running along the front elevation of the proposed building with provision for radii at the entrances to the parking bays. The proposed footpath abutting the proposed</p>

	<p>southern garden/patio area shall be at least 1.8 metres wide. The dwelling units shall not be occupied until both footpaths have been constructed in strict conformity with the agreed site layout plan.</p> <p><b>Reason:</b> In the interest of road safety.</p>
5.	<p>Prior to the commencement of development, the developer shall submit for written agreement to the planning authority a construction management plan providing such details as the authority may require. The development shall proceed in strict conformity with the agreed construction management plan.</p> <p><b>Reason:</b> In the interest of public safety and residential amenity.</p>
6.	<p>Site development and construction works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0830 and 1500 hours on Saturdays and not at all on Sundays and public holidays.</p> <p><b>Reason:</b> To protect the residential amenity of properties in the vicinity.</p>
7.	<p>No external lighting shall be installed on the site save in accordance with a scheme submitted to and agreed in writing with the planning authority.</p> <p><b>Reason:</b> To protect the residential amenity of neighbouring properties.</p>
8.	<p>Prior to the commencement of development,</p> <p>(a) any proposals to build over or divert existing water or wastewater services shall be submitted to Uisce Éireann for written approval; and</p> <p>(b) the developer shall enter into a water connection agreement with Uisce Éireann.</p> <p><b>Reason:</b> In the interest of public health.</p>
9.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p><b>Reason:</b> In the interest of public health.</p>
10.	<p>Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority specifications for an interim treatment plant which would discharge treated effluent to the public sewer, together with independent certification of its efficacy by a competent body.</p>

	<p>The agreed interim treatment plant shall be installed prior to the occupation of the dwelling units, unless the planning authority agrees in writing to alternative arrangements.</p> <p><b>Reason:</b> In the interest of public health.</p>
11.	<p>Prior to the commencement of development, the developer shall provide security to the Council in the sum of €10,000 for the provision and completion of all services required by the development, in one of the following ways:</p> <ul style="list-style-type: none"> <li>• a bond of a banking or insurance company acceptable to the Council in an approved form; or</li> <li>• a cash deposit; or</li> <li>• such other security as the Council may approve.</li> </ul> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
12.	<p>The developer shall pay to the planning authority a financial contribution 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. The contribution shall be paid prior to the 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 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>

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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**TREVOR A RUE**

Planning Inspector

18<sup>th</sup> December 2023