



An
Coimisiún
Pleanála

Inspector's Addendum Report

ABP-317787A-23

Development	RETENTION: Amendments to previously granted permissions 05/70161 and 07/70963.
Location	Tonduff, Buncrana, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	23/50850
Applicant(s)	Dermot Carragher, Stephen Brown, John Cutliffe, Laura Marshall and Martin Carlin.
Type of Application	Retention Permission and Permission
Planning Authority Decision	Permission
Type of Appeal	Third Party
Appellant(s)	Ann Marie Noone
Observer(s)	None
Date of Site Inspection	11 August 2025
Inspector	Claire McVeigh

1.0 Introduction

- 1.1. This report is an addendum report to the Planning Inspector's report in respect of ABP-317787-23 (dated 27 March 2024). I have been assigned this case following the recent retirement of the planning inspector who prepared the initial planning inspectors report. Having taken the case on at this point I wish to acknowledge that the subject application is complicated as it involves the retention of works carried out by another party than the applicant and includes for proposed works to rectify some of the issues that had arisen from the construction of the houses not in accordance with the parent permission and subsequent amending application (as referenced in the planning history section 4.0 of the initial inspectors report dated 27th March 2024). Furthermore, the four no. houses are complete and/or substantially complete.
- 1.2. On the 30 April 2025 the Board decided to defer consideration of this case to issue a section 132 notice for information to be submitted in respect to three items, as follows:
- 1) Provide a site-specific Site Suitability Assessment report detailing the assessment findings, in accordance with the relevant EPA Code of Practice: Domestic Wastewater Systems (Population Equivalent ≤ 10). The assessments shall be carried out by an appropriately trained and qualified person, in accordance with the guidance in respect of each of the sites/houses 1,2 and 4. (The Board noted the site suitability assessment report on file for house/site number 3).
 - 2) Following the applicant's completed site suitability assessment, and should the sites be found suitable for a DWWTS, full site-specific design details of each element of the intended DWWTS for each of the four sites (1,2, 3 and 4) shall be provided. Details shall include a site layout plan(s) showing all of the relevant detail of the DWWTS (scale 1:200) and cross sections and longitudinal sections through the site at the location of the each of the houses and through the primary, secondary and tertiary treatment, at a scale of 1:100 (cross section) and 1:200 (longitudinal section). Existing and proposed ground levels and details of all relevant features (including proposed house, adjoining houses, adjoining DWWTSs, boundaries, drains/surface water features/water course, including the Owenerk-020 (as per EPA catchment map) bounding

the site to the south east, roads, wells and adjoining/proposed DWWTSs) shall also be shown on the site layout plans(s) and where relevant on the section drawings. Drawings shall be dimensioned and shall show all relevant separation distances. Detail of the natural slope of the ground at the location of the DWWTS (including any percolation area) shall be presented, noting that in accordance with the EPA guidance (2009 and 2021 versions) DWWTSs are not permitted to be constructed on slope angles in excess of 1:8. Where an intermittent sand filter is proposed, full details of the make-up and stratification together with the underlying subsoil polishing filter, level of water table with clear dimensions shall be presented on the plan and section drawings.

- 3) The Board may have concerns with the proposals presented which involve the sharing of the percolation area of the DWWTSs for sites/houses 1 and 2 and the Board also noted that the EPA Code of Practice (2009 and 2021 versions) provide guidance on DWWTs for single houses and do not provide guidance for any communal/shared element. In this regard, the applicant is requested to provide precise details on the proposals for the future maintenance of any shared percolation area proposed.

1.3. I shall set out the timeline on the case for the Commission in the interests of clarity: -

- The Board initially provided six weeks for the applicant to respond on, or before, the 26th June 2024 to the request for information.
- The applicant subsequently sought a 16-week extension of time from the 26th June 2024 in order to complete the report. A new date of the 15th October 2024 was agreed by the Board (letter dated 9 July 2024) to allow the applicant to submit the requested information.
- The information as requested was submitted by the applicant to the Board on the 15th October 2024. This response was circulated to the parties.
- The Board decided that the applicant publish a new public notice in respect to the new information/amended scheme by letter dated 5 February 2025. The applicant prepared the public notices and published same on the 19 February 2025.

- By letter of the 16 April 2025 the Board advised the applicant that the revised public notices did not comply with the statutory requirements and that revised notices were requested.
- Revised public notices published on 30th April 2025, applicant confirmed same by email of the 2 May 2025.

1.4. As per the revised public notices, significant further information containing a site suitability assessment report and revised plans has been submitted to the Board (now Commission).

1.5. For the record the public notices describe the three elements, namely:

- (1) RETENTION permission is sought for a) **minor repositioning of access laneway and houses number 1, 2, 3 and 4 originally granted planning permission under planning ref. no. 05/70161**, b) existing site finished and associated works to houses numbers 1 and 2 originally granted under planning ref. no. 05/70161, c) **existing effluent treatment systems for houses number 1 and 2**, d) completion of construction of houses 1 and 2 originally granted planning permission under planning ref. no. 05/70161, e) completion of construction of house number 3 originally granted planning permission under planning ref. no. 07/70963.
- (2) Permission is sought for a) completion of construction of access laneway to include compacted gravel finishes to laneway originally granted planning permission under planning ref. no. 05/70161, b) construction of surface water drainage system to site entrance and access laneway originally granted planning permission under planning ref. no. 05/70161, c) construction of access footpath from roadside entrance to house no. 4 originally granted planning permission under planning ref. no. 07/70963, d) installation of new effluent treatment system for houses numbers 3 and 4, within the curtilage of said houses, e) completion of site finishes houses numbers 3 and 4 originally granted planning permission under planning ref. 07/70963, f) completion of construction of house number 4 originally granted planning permission under planning ref. no. 07/70963 and g) completion and construction of all associated site works.

(3) Revisions made to the proposed development (as set out in 2 above) following the request from the Board for information under section 132, as follows:

“These provide for the omission of the original proposed communal domestic wastewater treatment system (DWWTS) and instead to provide four separate DWWTS, each of which is proposed to be located within one of the four individual sites within the development and thus removing the communal system in its entirety from the original proposals, which was submitted to the planning authority on 15th June 2023. Full site-specific design details are provided for each of the four individual sites at a scale of 1:200. Site sections are included in the Site Suitability Assessment report”.

1.6. This report considers the submission made in response to the request for information. I note that the submission received from the applicant in response to the section 132 notice was circulated to all parties.

2.0 Response to S132 Notice

2.1. The applicant submitted the following documents:

- In response to Item 1 a site-specific Site Suitability Assessment report (issue date 14/10/2024) which includes: -
 - Individual assessments of three no. trial holes – referred to as Trial Hole No.1, No. 2, No. 3.
 - Percolation Tests for site no. 1, no. 2, no. 3, no. 4.

I highlight for the Commission that there is no trial Hole No. 4 and no assessment details for same. Trial Hole no. 1 is within the front garden area of house no. 1 but in close proximity to front garden area of house no. 2 and location of proposed infiltration/treatment area. It would appear that this trial hole has been selected for use in assessing both house no. 1 and house no. 2.

I note that the results of Trial Hole 2, which relates to house no. 3, have been replicated from the original site characterisation form submitted with the application documentation. Separately I highlight that trial hole no. 2 has been positioned within

the proposed infiltration/treatment area contrary to the Trial Hole Assessment (Section 5.4.2 of the EPA's Code of Practice).

Trial Hole three small section also overlaps with the proposed infiltration/treatment area.

- Site specific design details (Site Layout Sketch Drawing Number PCE9324/001) for each of the four sites/houses at a scale of 1:200.
- Cross Section drawings for each site/house – Site Section A-A (house no. 1), Site Section B-B (house no. 2), Site Section C-C (house no. 3) and Site no. 4 Section D-D (house no. 4) at a scale of 1:100.
- In response to Item 3 it is now proposed to have four separate DWWTS, one DWWTS in each of the four individual sites.

3.0 Response from the Planning Authority

The planning authority is satisfied with the proposals for dealing with foul waters from each individual property and has nothing further to add.

4.0 Response from the appellant

O'Gorman, Cunningham & Co Solicitors LLP have submitted a response on behalf of the appellant.

By way of context, it is set out that the appellant and her husband (now deceased) had applied for planning permission for four houses and then subsequently sold the property to a developer who commenced work on foot of the planning permission but then went into liquidation prior to completing the development. The four houses that were partially completed were then individually sold to the new owners i.e. the applicants.

Separate legal action referred to with respect of alleged going on to the appellant's lands and committing trespass - Equity Civil Bill Record Number 2022/2012.

The objections with the subject application include:

- a) The application site boundary as outlined in red does not correctly indicate the land ownership. Considers that application should be invalidated. Attached Land registry map as Appendix.
- b) The owners of the 4 no. houses/sites only have a right of way from the public road to the frontages which is not marked on the submitted plans and particulars.
- c) Concerns regarding runoff from the proposed four sites percolation areas onto the appellants lands due to the level of superficial hard rock on these sites. It is stated that the level of hard rock has not been fully addressed in the assessments.
- d) Works carried out installing two individual septic tanks on the appellants lands is an illegal trespass and the removal of the original communal treatment plant leaving the lands rough, disfigured and without topsoil. There is no agreed restoration or decommission plan for these two illegally sites septic tanks.
- e) The original planning permission had a continuous footpath from the public road and across the fronts of the site as a requirement. This footpath is not extended across the sites giving the site additional depth that the installation of the wastewater treatment plant design is attempting to utilise to meet the necessary standards. If the footpaths are included the proposed wastewater proposals will not work.
- f) Changing the application from two new WWTP to four is significantly different and should have required the application to be withdrawn and re-submitted.
- g) The service road line and configuration are not fully in accordance with the original planning permission drawings with the cul-de-sac turning point extended into the appellants lands. Site 4 as sold on registered maps has this feature in what they are claiming as their garden, and this incorrectly and artificially appears to enhance the area of site 4 which corrected could not accommodate a WWTS as proposed.
- h) The fence line of site no. 4 is outside of its folio map and while redress for this may be a civil matter, the application drawings submitted include the area of encroachment accommodating the proposed wastewater treatment system. The correct boundary transects part of the house and an extension; this issue is subject to the separate legal action (referred to above).

- i) The rear excavations for the four sites encroached into the appellants lands significantly. There is insufficient stabilisation or structures such as retaining walls to secure the land to the rear. The extent of the excavations undermines the right of way used by the appellant when moving cattle along the northeastern boundary. (Aerial photograph submitted to illustrate access route and areas of excavations).
- j) Site no. 1 has a gate on its northwestern boundary onto the appellants lands which should not be there, as it indicates rights beyond the boundary fence.
- k) Contends that none of the owners are permanently residing in the houses and that they are used as holiday homes without due levies being raised. Site no. 1 and site no. 2 claim residence their sewer and wastewater effluent is being discharged onto the appellants lands without consent.

A subsequent submission from the appellant was received by the Board on the 16 May 2025 confirming that the new site notices were erected on site dated 30 April 2025.

They are concerned that: -

- The issues raised in respect to valid site plans submitted with the application are not being taken into consideration. The site plans submitted encompass all of the appellant's lands i.e. an area 8 times greater than the applicant own.
- The site plan should show that the applicants only have a right of way to their sites over the appellants lands.
- On the basis of the errors in the submitted plans that the application should be invalidated without a letter of support from the appellant, which they state would understandably not be forthcoming.

Copy of initial submission to An Bord Pleanala attached.

5.0 **Assessment**

- 5.1. At the outset I wish to highlight to the Commission that the current development plan in place at the time of writing my addendum report is the County Donegal Development Plan 2024-2030 which supersedes the 2018-2024 County Donegal Development Plan which was in place at the time of the initial inspector's report. The

subject sit now sits in an area designated as 'Areas Under Holiday Home Pressures', previously noted in the inspector's report within a designated 'a stronger rural area', as noted in section 5.1 of that report.

5.2. I note the inspector's report, in section 7.0 (i), concurs with the planning authority's view that the current application is not for the provision of new housing but for the retention of the 4 no. dwelling houses 'as built' along with proposed works. I accept that the proposed application relates to retention and permission elements to the substantially complete and existing houses. Separately, I note that the relevant planning history for these houses limits the use to permanent dwellings, and they shall not be used as 2nd/holiday homes (Condition no. 2 of planning register reference 05/70161 and Condition no. 1 of Planning register reference 07/70963 refer).

5.3. Having regard to the response to the s.132 request for information and the submissions by both the planning authority and the applicant I am of the view that the issues to be addressed in this addendum report are:

- Suitability, or otherwise, of the proposed treatment of domestic wastewater generated by each of the four houses and the proposed design of the Domestic Wastewater Treatment Systems (DWWTSs) (including consideration of access road alignment/footpath).
- Non-compliance with previous permissions
- Land ownership/application red line boundary

5.4. **Suitability, or otherwise, of the treatment of domestic wastewater generated by each of the four houses and the proposed design of the Domestic Wastewater Treatment Systems (DWWTSs)** (including consideration of access road alignment/footpath).

The revised drawings submitted in response to the s.132 request do include a site layout sketch (Scale 1:200) and site sections at a scale of 1:100, however, I note that the longitudinal sections as requested by the Board are not included in the drawing package. Having visited the site and noting the other drawings submitted I am of the

view that there is sufficient information available to me to assess the site suitability for DWWTSs.

The appellant in their initial appeal submission raised concerns that the proposed change from two new WWTs to four WWTs is significantly different and would have required the application to be withdrawn and resubmitted. I highlight to the Commission that the significant information was readvertised, and statutory notices placed on site. As such I consider that the subject appeal to be valid on these grounds.

In the revised assessment contained in the Site Characterisation Form (SCF) only 3 no. trial holes were dug. Site layout plan indicates that there is no trial hole relating to house no. 2. Noting the previous location of the trial hole for house no. 3 and the proximity of the trial hole for both houses no. 1 and house no. 2 I consider the testing undertaken to be sufficient to allow for a comprehensive evaluation of the suitability of the soil.

The appellant highlights in their submission that the revised site layout plan does not include the proposed footpath as included for in the parent permission, and as such the front gardens to each of the four dwellings are extended. I would concur with the appellant and consider that the revised site layout sketch (Drawing no. PCE9324/001 does not accurately illustrate the front garden dimensions of the houses when a footpath is constructed alongside the road edge, nor does it indicate the folio boundary of the house plots and the gardens are represented as larger than they really are. I shall address the laneway alignment and footpath in more detail in section 5.5 below, but in terms of what is now proposed I consider that the provision of individual DWWTSs for each of the existing houses would be an improved scenario to that which exists on site, in the form of 2 no. unauthorised septic tanks on third party lands and what was originally proposed. In light of these improvements, I am of the view that the provision of a footpath is unnecessary taking into account the limited number of dwelling units and the nature of the subject site. Acknowledging these omissions having undertaken a comparison of the Existing Site Plan drawing PD02 and Site layout sketch with proposed WWTs (Drawing no. PCE9324/01) I am of the view that there remains sufficient space within the front gardens to accommodate the DWWTS if the boundaries are corrected to match the

property folio line and the footpath is not provided. I shall address in more detail the laneway and the footpath in section 5.5.

On review of the submitted Site Characterisation Form (SCF) prepared by *Porter Consulting Engineers* received on the 15 October 2024 I note that the aquifer category is poor (Pi) and there is extreme vulnerability. Rock outcrop is identified to the rear of the dwellings where the levels have been reduced and there is a stream along the southwestern boundary of the site which connects with the Owenerk River. The ground water protection response is noted as R2₁.

The appellant has concerns about runoffs from the proposed four sites percolation areas onto their lands due to the level of superficial level of hard rock on these sites. I note that the SCF presents an evaluation of each of the three trial holes identifying no water ingress or rock present at the proposed location of the infiltration areas/polishing filters.

Table 5.1: Percolation Values (PV)

House number	Percolation Value (PV)
No. 1	36.56
No.2	35
No. 3	34.64
No. 4	31

The results of the subsurface percolation tests indicate that the site is suitable for a packaged wastewater treatment system and polishing filter. The SCF sets out that a tertiary treatment system and infiltration/treatment area is the selected DWWTS for each of the 4 no. individual sites discharging to groundwater via a Biological Aerated Filter (BAF), 'Tricell-Tero Packaged Tertiary Wastewater Systems and underlying gravel infiltration system or by equal and approved alternative system. It is also noted in the SCF that any existing drains or services encountered within the site would be diverted to facilitate the proposed on-site wastewater treatment systems.

I consider that the proposals in respect to the 4 no. individual DWWTS as presented in the submitted SCF accord with the requirements set out in EPA Code of Practice

Domestic Wastewater Treatment Systems (March 2021). As already referred to above there may need to a slight repositioning of the gravel infiltration area to ensure that the DWTTS maintains the necessary separation distances when accounting for the reduced plot dimensions of the houses to align with the respective folio boundaries. I am of the view that if the Commission is minded to grant permission these matters can be addressed by condition.

The SCF sets out that the existing septic tanks serving sites no. 1 and no. 2 are to be decommissioned. Please refer to section 5.5 for my assessment of the proposals with respect to the existing non-compliant septic tanks.

All storm water from the development is piped within separate system to discharge to piped storm water drain along the access road. Please refer to section 5.5 of my assessment of the proposals with respect to the alignment of the access roadway and surface water proposals.

5.5. Non-compliance with previous permissions

Alignment of access roadway and footpath provision

The access roadway to the four no. houses has not been constructed in accordance with the permitted planning register reference 07/70963, as accepted by both parties to the appeal, as it extends beyond the permitted alignment both to the south and east. Having reviewed the planning history for the site and the respective submissions by both the applicant and the appellant I am of the opinion that there is an opportunity to resolve issues relating to the access laneway. I am of the view that the applicant has not demonstrated sufficient legal interest to enable me to recommend a grant of RETENTION for the repositioned access laneway. In the interest of clarity, I consider that planning retention should be refused for this element of the application. Notwithstanding, I consider that the access laneway could, by way of condition, revert to the permitted alignment, including hammerhead junction, as previously permitted under planning register reference 07/70963. To accommodate same and to allow for sufficient space within the front gardens of the existing 4 no. houses to accommodate the DWTTS I am of the view that a footpath from the roadside entrance to serve the four no. houses is not required in this instance, having regard to the lightly trafficked nature of the laneway as per guidance

contained within DMURS (Design Manual for Urban Roads & Streets) for shared surfaces. I consider that if the Commission is minded to grant permission for the remaining elements of the application this matter could be addressed by way of condition.

Surface water management

Surface water proposals include for a surface water drain to be installed along the access road. As above the access laneway alignment is recommended to be modified by condition to revert to the permitted alignment under 07/70963. As such, I consider that it would be appropriate to also condition the proposed new surface water drain to be constructed entirely within the roadway alignment as permitted.

Existing unauthorised two no. septic tanks serving houses no. 1 and 2

The appellant has concerns that there is no agreed restoration or decommission plan for the unauthorised septic tanks on their land. I am of the view that a decommissioning and restoration plan for the removal of the existing two no. effluent treatment systems serving houses no. 1 and no. 2 can be addressed by way of condition if the Commission is minded to grant permission.

Excavation of bank

The applicant contends that works undertaken to excavate the bank to the rear of the four no. houses were carried out by the previous developer and the applicants purchased their homes following this work being undertaken. No proposals are put forward in the application with respect to the excavation.

I note that the applicant in their response to the appeal acknowledge that following a survey undertaken by Digital Land Surveys (DLS) the fencing around the individual houses and their gardens do not sit exactly on the boundary lines. The applicant confirms that the fencing of houses no. 1 and 4 can be repositioned to be within their boundaries. The appellant separately raises concerns in respect to a gateway created on the northwestern boundary of house no. 1 which appears to indicate rights beyond the boundary fence. I am of the opinion that the gate can be addressed by way of condition in conjunction with the repositioning of the boundary to align with the property ownership boundaries.

Having carried out my site inspection I note the area of excavation, the gate and the position of boundary fence line. I consider that in addressing the incorrect positioning of the boundary demarcation that it would be appropriate that a structural survey of the excavated area to the rear of the four houses no. 1-4 inclusive be carried out to inform the appropriate boundary treatment for this area. In the event the Commission is minded to grant permission, full details including plans and a timeline for implementation, of any necessary stabilisation of same for the repositioned boundaries be submitted to the planning authority for their written agreement by way of condition.

5.6. Land ownership/application red line boundary.

The appellant restates their concern in response to the s.132 information relating to the accuracy of the application red line boundary and encroachment of the development, proposed and to be retained, onto their lands. The inspector's initial report acknowledges that contesting claims over land ownership are the subject of an on-going civil law case in the courts (para. 7.5). I do not have an update on the outcome at the time of writing this addendum report, if any, on the case referred to.

The original application (Planning register reference 05/70161) made at that time by the appellant's husband (now deceased) included all the lands within their ownership in the red line boundary. Subsequently, the sites of the permitted four no. dwellings and a right of way was subsequently sold to a developer, and a change of house type application was made under planning register reference 07/70963. The application red line boundary was unaltered in that change of house type application from that of the parent permission planning register reference 05/70161 (Site area indicated as 2.145ha on Site Layout Plan (Revision A) dated 9.11.05). In the current application, again the red line boundary is similar to that of the parent permission, however, I note the stated site area has increased to 2.66ha.

From the information submitted by both the applicant and the appellant it is clear that the red line application boundary for the current application does not reflect the current position regarding landownership of the appellant (under Folio 58131F of 2.23ha) and of the individual ownership of each of the 4 no. houses of the applicants

(Folio Numbers DL66433F (House no. 1), DL66353F (House no. 2), DL84686F (House no.3) and DL66434F (House no.4)).

The applicant has submitted a copy of document titled 'Land registry' with Folio reference Folio 24640, relating to lands comprising 0.4321ha marked with a 'B' being part of the lands comprised in Folio 24640 dated November 2006 between the appellant Annmarie Noone and Eamon Noone and Oliver Gallagher (referred to as the developer and named applicant on planning register reference 07/70963). This document does indicate that there are rights, within 21 years from the date of the document (November 2006), to lay and install all such pipes, drains, conduits, wires, cables and such like as may reasonably be required to supply water drainage sewage signals or such like to and from the respective properties along the right of way 'denoted in yellow' on the attached map. As already referred to in the initial inspector's report, and as confirmed by me on 17 September 2025 (viewed Land Direct website), the lands identified on the Land Direct website under this folio reference do not relate to the subject site.

Notwithstanding this discrepancy I can clearly see that folio 58131F, as submitted by the appellant, relates to lands within which the current application seeks to carry out works and the applicants are not the owner of these lands outside of their own individual site boundaries, folios referenced above. I would not agree with the inspector's conclusions in their initial report, that the proposed works sit within the respective folio, given the alignment of the laneway does not accord with the permitted development and that as indicated in the Folio Map (DL 24640) submitted in response to the appeal.

I note the concerns raised by the appellant and agree in respect to the need of the rights of the third-party appellant to be acknowledged and respected within the decision-making process. In the normal circumstances, acknowledging the rights of the third-party appellant, I would be minded to recommend a refusal given the absence of written consent and the third-party appellant's concerns. However, in this instance there are four no. houses substantially complete on the site; there are now revised proposals to provide individual wastewater treatment systems for each of the four no. houses (please see section 5.4 for assessment of same) each on their own sites and within their own folios which is an improvement from what was previously

proposed; there is an agreed right of way from the public road to the frontages of houses 1-4; and, that there is stated willingness for resolution by both parties.

1. The applicant acknowledges that the fencing around the individual houses and their gardens do not sit exactly on the boundary lines, as shown on the survey drawings/site plans, and they note that the fencing around houses no. 1 and no. 4 can be repositioned to be within the boundaries. It is further stated by the applicant that the survey drawing from DLS (submitted as Appendix 2 PD02 Existing Site Plan of the response to appeal) illustrates that house no. 4 is constructed within its boundary and does not encroach on the appellant's lands.

Taking the foregoing into account and set against the stated objective UB-O-3, of the current plan which seeks the effective resolution of unfinished residential development it would be preferable, in my view, to recommend a grant permission for this case. I am of the opinion that it would not be unreasonable to address the majority of these matters, in respect to site boundary and encroachment, by way of condition. Separately the issue with respect to the proposed retention of the repositioned access laneway is addressed in section 5.5.

6.0 Environmental Impact Assessment

Please refer to Planning Inspectors report dated 27 March 2024. I am of the opinion that the further plans and particulars, as received on the 15 October 2024, do not result in a change to the pre-screening determination.

7.0 Appropriate Assessment

Please refer to Planning Inspectors report dated 27 March 2024. I am of the opinion that the further plans and particulars, as received on the 15 October 2024, do not result in a change to the Screening Determination contained within.

8.0 Recommendation

- 8.1. I recommend that a **split** decision should be made, as follows:

Schedule (1)

- (1) Grant RETENTION permission for (a) the repositioning of houses number 1,2,3 and 4 originally granted planning permission under planning register reference no. 05/70161, (b) existing site finished and associated works to houses number 1 and 2, (c) completion of houses number 1 and 2 originally granted planning permission under planning register reference no. 05/70161 and (d) completion of construction of house number 3 originally granted planning permission under planning register reference 07/70963 for the reasons and considerations in section 9.0 referenced as (1) and subject to the conditions set out in section 10.0; and,
- Grant PERMISSION for (a) the completion of access laneway to include compacted gravel finished to laneway originally granted planning permission under planning register reference No. 07/70963, (b) construction of surface water drainage system to site entrance, (c) installation of four separate domestic waste water treatment systems (DWWTS) to houses no's 1, 2, 3 and 4, each of which is to be located the curtilage of said houses, (d) completion of site finishes to houses numbers 3 and 4 originally granted planning permission under planning ref. 07/70963, (e) completion of construction of house number 4 originally granted planning permission under planning ref. no. 07/70963 and (f) completion and construction of all associated site works for the reasons and considerations in section 9.0 referenced as (1) and subject to the conditions set out in section 10.0.

9.0 Reasons and Considerations (1)

Having regard to Objective UB-O-3 of the County Donegal Development Plan 2024-2030 , which seeks the effective resolution of unfinished residential development and the planning history of the site, it is considered that subject to compliance with conditions that the proposed retention of works as set out in section 8.1 (b) and permission for proposed works as set out in section 8.1 (3) would meet with the stated objective taking into account that there are four no. houses substantially complete on the subject site, the revised proposals to provide individual wastewater treatment systems for each of the four no. houses each on their own and that there

is an accepted need and willingness for resolution by both parties. Therefore, it is considered that the development to be retained and development as proposed would accord with the proper planning and sustainable development.

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 received by the Commission on the 15 day of October 2024, 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.

Reason: In the interest of clarity.

2. The development shall be amended as follows:
 - (a) The access laneway shall be repositioned to revert to the alignment, including the hammerhead junction, as previously permitted under planning register reference 07/70963 and completed with compacted gravel finish. The proposed access footpath from roadside entrance to house number four (4) shall be omitted and revisions to the front gardens of each of the four houses, as necessary, shall be carried out to accommodate the access laneway and hammerhead junction.
 - (b) Surface water drainage system shall be located entirely within the repositioned access laneway as per (a) above.
 - (c) The proposed four no. separate domestic wastewater treatment systems shall be repositioned, as necessary, within each individual site in response to the requirements of (a) above.
 - (d) The boundary of houses no. 1, 2, 3 and 4 shall be revised to accurately demarcate and align with their respective folios. The gate to the northwestern boundary of house/site no. 1 shall be removed.

Revised drawings showing compliance with these requirements and a timeline for implementation shall be submitted to, and agreed in writing with, the planning authority within six (6) months of the date of this permission.

Reason: In the interests of the effective resolution of unfinished residential development.

3. Within one month of the date of this permission the developer shall submit to, and agree in writing with the planning authority, a decommissioning and restoration plan (including timeline for implementation) for the removal of the existing two no. effluent treatment systems serving houses no. 1 and no. 2.

Reason: In the interest of public health and safety.

4. Within one month of the date of this permission the developer shall submit to, and agree in writing with the planning authority, a structural survey of the excavated area to the rear of the four houses no. 1-4 inclusive and full details, including plans and a timeline for implementation, of any necessary reinforced repositioned boundary details as required by Condition 2 (d) and/or stabilisation works of same.

Reason: In the interest of public health and safety.

5. The dwelling houses on plots nos. 1, 2, 3 and 4 shall only be used as permanent places of residence for their occupants. They shall not be used as second homes or holiday homes.

Reason: In the interest of clarity and in order to comply with development plan policy.

6. (a) The wastewater treatment system (WWTS) hereby permitted for houses no. 1, 2, 3 and 4 shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on 15 October 2024 and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) ” – Environmental Protection Agency, 2021.

(b) Treated effluent from each of the four wastewater treatment systems (WWTSs) shall be discharged to a polishing filter which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic

Wastewater Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.

(c) Within three months of the first commissioning of each of the four WWTSSs, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.

7. A B.S 750 round threaded outlet fire hydrant on a 100mm minimum diameter watermain shall be located within 50m of proposed development along verge of surfaced roadway shall be installed within 12 months of a final grant of permission (unless in the interim the planning authority agrees otherwise or consents to a longer period for compliance in writing.

Reason: To obviate fire hazards and to cater for the orderly development of the area.

Schedule (2)

- (2) Refuse RETENTION permission for the repositioning of access laneway for the reasons and considerations in section 11.0 referenced as (2).

11.0 Reasons and Considerations (2)

1. The Commission is not satisfied that the applicant has demonstrated sufficient legal estate or interest in the land immediately south and east of the as built access laneway, or the approval of the person who has sufficient legal estate or interest to retain the access laneway in the position as built.

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.

Claire McVeigh
Planning Inspector

25 September 2025