



An  
Bord  
Pleanála

## Inspector's Report ABP317789-23

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<b>Development</b>	Construction of a house
<b>Location</b>	Beefpark, Mountcharles, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	22/52023
<b>Applicant</b>	Evelyn Cassidy Kierans
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Conditional grant
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Daniel Gallagher
<b>Observers</b>	None
<b>Date of Site Inspection</b>	
<b>Inspector</b>	Trevor Rue

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
4.0 Planning History.....	6
5.0 Policy and Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations .....	10
5.3. EIA Screening .....	11
6.0 The Appeal .....	11
6.1. Grounds of Appeal .....	11
6.2. Applicant Response .....	12
6.3. Planning Authority Response .....	13
7.0 Assessment.....	14
8.0 Recommendation.....	19
9.0 Reasons and Considerations.....	19

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.24 hectares, is about 5 kilometres to the south west of Donegal Town and 1.3 kilometres to the south east of Mountcharles.
- 1.2. The site comprises a rectangular area of rough uncultivated land with an abundance of soft rush. Its eastern boundary is marked by post-and-wire fencing. The northern and western site boundaries are undefined. The southern boundary abuts a private lane and consists of mature hedging, including bramble and some rush. The site slopes upwards to a maximum height of about 12 metres above the lane. The front of the site, abutting the lane, is relatively flat and provides a natural verge.
- 1.3. The lane is a narrow cul-de-sac about 440 metres long. It is separated from Donegal Bay to the south by uncultivated land. It includes a bridge/culvert structure over a small river located about 80 metres to the west of the site. About 50 metres to the west of the river, the lane connects to the local road L-1885-1.
- 1.4. A dwelling is under construction immediately to the east of the site and there are three large detached dwellings further to the east along the lane.

## 2.0 Proposed Development

- 2.1. Permission is sought for a detached split-level dwelling in a contemporary style with an integral basement garage. It would have a floor area of 265 square metres. The proposed finished floor level (FFL) of the lower ground floor is 14.5 metres, road level being 9.00 metres. The ground floor would be set at 17.53 metres and the ridge level would be 22.96 metres.
- 2.2. The dwelling would have a double pitched roof and an intermediate flat-roofed section. There would be extensive glazing and a balcony on the southern elevation. The sharply pitched roofs would be clad in blue/black natural slate. The walls would be rendered with a smooth finish. The lower level of the structure would be clad in locally sourced natural stone.

## 3.0 Planning Authority Decision

### 3.1. Decision

On 20<sup>th</sup> July 2023, Donegal County Council decided to grant permission subject to 16 conditions. These included conditions restricting the occupancy of the dwelling, requiring the provision of visibility splays of 2.4 metres by 90 metres and the upgrading of a culvert, specifying a maximum FFL of 14 metres and requiring installation of a wastewater treatment system.

### 3.2. Planning Authority Reports

#### Planning Reports

- 3.2.1. The **planner's reports** of 3<sup>rd</sup> February and 12<sup>th</sup> July 2023 provided the reasoning for the authority's decision. She described the site and the proposed development, summarised the response of the Council's Area Roads Engineer and the Department of Housing, Local Government and Heritage (a prescribed body) and key points raised in third party submissions, set out the planning history and relevant provisions of the development plan. Among the main issues she identified were the principle of development, siting and design, access and traffic safety, public health and appropriate assessment.
- 3.2.2. The planning officer reached the following conclusions relevant to these matters:
- A letter from an elected member of the Council confirms that the applicant has a vital link to the area with long-established ties of over 30 years of immediate family members. No other forms of evidence, such as birth or marriage certificates, utility bills, school reports or letters from employers to confirm her rural housing need. However, in accordance with Council practice and procedures, the planning authority is satisfied that the development is acceptable in principle based on the *bona fide* letter.
  - The site is within a drumlin coastal landscape. It is visible from the L-1885-1 to the west which provides access to the beach. The dwelling would be sited on the curve of the hillside. The applicant was requested to erect lathes to enable the planning authority to ascertain the visual impact of the dwelling from the

west. A further reduction in FFL and ridge heights would be necessary to facilitate greater integration of the dwelling when viewed from that direction.

- The site layout plan shows vision lines of 90 metres to the south west and 130 metres to the north east. However, the lane is private with four other dwellings using it at present. It is considered that visibility of 50 metres in each direction would be acceptable at this location and would be available to the applicant without impinging on third party land. The applicant has agreed to upgrade an existing culvert at the junction with the public road, which would be of benefit to the wider community
- A packaged wastewater treatment system and percolation area with polished filter are proposed. Surface water is to be discharged via a series of soakaways.
- Consideration has been given to the site's proximity to two Natura 2000 sites – the Donegal Bay Special Area of Conservation (SAC) and Special Protection Area (SPA). A Natura impact statement (NIS) has been prepared with mitigation measures set out. Having regard to those measures, no significant impacts on water quality are envisaged. As the development would not result in any direct loss or fragmentation of habitat from the Natura 2000 sites and as mitigation measures are included, it can be excluded on the basis of objective scientific information that the proposed development, either individually or in combination with other plans/projects, would have a significant effect on the SAC or the SPA.
- Subject to compliance with specified conditions, the development would not injure the amenities of the area, would not be prejudicial to public health and would not endanger public safety by reason of a traffic hazard.

#### Other Technical Reports

- 3.3.1 The **Area Roads Engineer** had no objection to the application subject to standard conditions with regard to setback and drainage and the carrying out of remedial works to the bridge/culvert on the access road to the west of the site.

## Prescribed Bodies

3.3.2. The **Department of Housing, Local Government and Heritage** did not agree that the proposal could be screened out for AA as the construction management plan originally submitted in support of the application contains details that could be considered to be mitigation.

3.3.3. No response was received from An Taisce or Irish Water (Uisce Éireann)

## 4.0 Planning History

4.1. **98/1262:** On 9<sup>th</sup> October 1998, outline permission was granted to Danny Gallagher for four dwellings to the north west of the private lane. On 12<sup>th</sup> September 2003, an application by Danny Gallagher for approval for four dwellings based on the outline permission was refused (**03/657**).

4.2. **00/972:** On 30<sup>th</sup> March 2001, permission was granted to D Gallagher for construction of a road and culvert to the north east of the L-1885-1. On 11<sup>th</sup> March 2002, permission was granted to Danny Gallagher for relocation of access road (**01/831**).

4.3. **04/9:** On 22<sup>nd</sup> March 2004, permission was granted to Daniel Gallagher for a single storey dwelling in a similar position to that of the present appeal site.

4.4. **09/20144:** On 29<sup>th</sup> June 2009, permission was granted to Daniel Gallagher for a dwelling with attic in a similar position to that of the present appeal site.

4.5. **10/20008:** On 6<sup>th</sup> April 2010, permission was granted to Daniel Gallagher for a dwelling with attic in the approximate position of the present appeal site. On 30<sup>th</sup> April 2015, an application by Daniel Gallagher to extend the period for implementing his 2010 permission until 5<sup>th</sup> April 2020 was granted (**15/50284**).

4.6. **16/51250:** Following the grant of three previous permissions for similar development, on 11<sup>th</sup> November 2016, permission was granted to Marion Gallagher for a split-level dwelling on a site immediately to the east of the present appeal site.

4.7. **20/50626:** On 9<sup>th</sup> July 2020, permission was granted to Aoife Dorrian for a dwelling at the eastern end of the private lane. The application included details of improvements to the bridge and remedial works to the lane. A third party appeal to the Board by Daniel A Gallagher (**307730-20**) resulted on 24<sup>th</sup> February 2021 in the refusal of

permission as it was considered that the applicant had not demonstrated an economic or social need to live in a rural area.

- 4.7. **21/52154:** On 3<sup>rd</sup> March 2022, permission was again granted to Aoife Dorrian for a dwelling at the eastern end of the private lane. This application also included details of improvements to the bridge and remedial works to the lane. A third party appeal to the Board by Daniel A Gallagher (**313168-22**) resulted on 16<sup>th</sup> June 2023 in the refusal of permission as it was considered that the applicant had failed to demonstrate a vital link to the rural area.
- 4.8. **22/50663:** On 8<sup>th</sup> September 2022, permission was granted to Stephen Prendiville and Amanda O'Donnell for change the design previously approved under 16/51250 for a dwelling on a site immediately to the east of the present appeal site.
- 4.9. **23/51230:** On 19<sup>th</sup> October 2023, permission was granted for a third time to Aoife Dorrian for a dwelling at the eastern end of the private lane. This application again included details of improvements to the bridge and remedial works to the lane. A third party appeal was submitted to the Board by the present applicant (**318459-23**) but was withdrawn on 1<sup>st</sup> December 2023.

## 5.0 Policy and Context

### 5.1. Development Plan

5.1.1 Map 6.2.1 of the County Donegal Development Plan 2018-2024 indicates that the appeal site is in a Stronger Rural Area. Policy RH-P-3 applies in such areas. It requires applicants for planning permission for dwellings to demonstrate that they comply with one or more of the following:

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

- that, for exceptional health circumstances, they can demonstrate a genuine need to reside in a particular rural location.

5.1.2. Map 7.1.1 of the Plan indicates that the front portion of the site adjoining the private lane is in an Area of Especially High Scenic Amenity, defined as sublime natural landscapes of the highest quality that are synonymous with the identity of County Donegal. The rear portion of the site is in an Area of High Scenic Amenity, defined as landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal.

5.1.3. Policy NH-P-6 states that within Areas of Especially High Scenic Amenity, only developments assessed to be of strategic importance or developments that are provided for by policy elsewhere in the Plan shall be considered. Policy NH-P-7 is to facilitate development within Areas of High Scenic Amenity of a nature, location and scale that allows it to integrate within and reflect the character and amenity designation of the landscape.

5.1.4. Policy RH-P-1 sets out seven requirements that apply to all proposals to all proposals for rural housing, including the following:

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;
4. Site access/egress shall be configured in a manner that does not constitute a hazard to road users or significantly scar the landscape;
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.

5.1.5. Policy RH-P-2 is to consider proposals for a new rural dwelling which meet a demonstrated need, 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;
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 constitute haphazard development;
4. A proposed dwelling will be unacceptable where it is prominent in the landscape;
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.

5.1.6. Policy RH-P-9 seeks the highest standards of siting and architectural design for all new dwellings constructed within rural areas and states that the Council will require that all new rural dwellings are designed in accordance with the principles set out in Appendix 4 of the County Development Plan, entitled “Building a House in Rural Donegal – A Location, Siting and Design Guide”.

5.1.7. Policy WES-P-11 is to support and facilitate Irish Water (Uisce Éireann) to ensure that wastewater generated is collected and discharged in a safe and sustainable manner.

5.1.8. Among the design principles set out in Appendix 4 to the Plan are the following:

- The traditional ratio of solid to void should inform the treatment of the elevation.
- Windows should be given a vertical emphasis and complement the window to wall ratio accordingly.
- The treatment of the roof edges should be carefully considered and relate directly to the rural detailing of the area.

- Historically a 35 to 45 degree roof pitch provides maximum wind and rain resistance and is of particular rural reference.
- The use of local materials adds to local distinctiveness, responding to the setting within which the building sits and reinforcing a sense of place.
- New buildings in the countryside should respect the rural context, and contemporary design solutions should demonstrate an informed use of traditional reference.

5.1.9. Table 4 in Appendix 3 to the Plan sets out standard vision lines at accesses to non-national public rural roads outside 60 kilometre per hour speed limit zones.

## 5.2. Natural Heritage Designations

5.2.1. The appeal site is not subject to any natural heritage designation but is about 80 metres from the Donegal Bay (Murvagh) Special Area of Conservation (SAC) and about 85 metres from the Donegal Bay Special Protection Area (SPA).

5.2.2. The conservation objectives for the SAC may be summarised as maintaining or restoring the favourable conservation condition of the following qualifying interests:

- Mudflats and sandflats not covered by seawater at low tide
- Fixed coastal dunes with herbaceous vegetation (grey dunes)
- Dunes with *Salix repens* ssp. *Argentea* (*Salicon arenariae*)
- Humid dune slacks
- *Phoca vitulia* (Harbour Seal)

5.2.3. The conservation objectives for the SPA may be summarised as maintaining the favourable conservation condition of the following species:

- Great Northern Diver
- Light-bellied Brent Goose
- Common Scoter
- Sanderling
- Wetland and Waterbirds

### 5.3. EIA Screening

5.3.1. 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

- Little detail has been provided regarding the applicant's ties to the rural area. She does not comply with the rural housing policy as she does not have a vital link to this sensitive area.
- The development would require large-scale excavation works and scar the local landscape. It would seriously injure the visual amenity and character of the host environment, setting an undesirable precedent in this highly sensitive location. The planning application is vague about volumes of cut and fill. Similar permissions within 1 kilometre of the subject site were overturned by the Board due to potential detrimental effects on the receiving environment (appeal reference 311703-21).
- There has been a high concentration of planning applications in the immediate locality. This proposal would further erode the rural character of the area.
- The proposed dwelling would directly overlook the appellant's land holding. When he is in a position to apply for permission to construct his own family home on his own family lands, he would be severely restricted.
- The appellant does not understand why the Council granted approval conditional on the provision of permanent vision lines, when he clearly stated that he does not give consent for the maintenance of vision lines over his land directly to the west of the appeal site.
- The development would be accessed off a substandard road for which upgrade works were to be carried out by the landowner selling the appeal site. The landowner has failed to comply with conditions of several planning permissions

to improve the nearby bridge and road and the Council has not commenced enforcement proceedings. There is no legal requirement for the applicant to carry out improvement works.

- The information included with the application does not fully address the risks associated with the development, during and after the construction phase. It is unclear what management procedures would be in place.
- There are six dwellings within 150 metres of the site and one under construction directly adjacent. This very high concentration of septic tanks and treatment systems in an unserviced rural area would prejudice public health.

## 6.2. Applicant Response

- The applicant has a vital link to the area by virtue of her immediate family members having lived there for over 30 years. She sold her home last year and currently has no principal family home. She currently lives with her brother at Turrishill, Mountcharles. She wishes to move back to the area to be beside her family full time. Councillor Jordan knows the family well and has supported her application. An electricity bill addressed to Mr Gerald Cassidy and a letter from An Post warning of fraudsters addressed to Mr Peter Gerard Cassidy of Turrishill were submitted as further documentary evidence.
- The house is designed to work with the natural contours of the site. The architects have opted for a split-level approach to minimise scarring the landscape. The bulk of the accommodation would be placed on the upper ground level. To avoid building a standalone garage, that mass would be worked into the natural lower levels of the site. The only real area to be excavated is forward (south) of the house. That area would be replenished with soft landscaping. A site section was submitted showing minimal cutting.
- The house has been designed to comply with Policy RH-P-2 and to integrate with the receiving landscape.
- Vision lines are not over the appellant's or any other third party lands. They are contained within the private access road.

- The applicant has agreed to implement the remedial works to the bridge which were part of planning application 20/50626. The drawings previously approved were resubmitted. Condition 10 of the Council's decision requires all works relating to the upgrade of the existing culvert to be completed to the satisfaction of the Area Roads Engineer prior to first occupation of the dwelling.
- The applicant engaged the services of engineers to assess the soil conditions of the site, separation distances and the proximity to the SAC and adjoining houses. They concluded that an effluent treatment system can be accommodated on the subject site.
- The NIS set out measures to mitigate against any impact on the surface waters or water quality of the SPA and the SAC. A silt fence would be installed between the development works and the southern and western site boundaries for the duration of the works. Best practice measures would be employed in handling excavated materials in the course of foundation construction. A wheel washing station would be set up. The contractor would be expected to complete the works within 16 to 18 weeks, assuming favourable weather and ground conditions. Concrete mixer truck loads would be delivered in suitable weather and under no circumstances should the mixers and chutes be washed out on site. Diesel for machinery would be brought to site only when required and containers secured stored. All construction materials would be kept in a temporary dry store away from the western or southern boundary.
- The NIS concludes on the basis of objective scientific and factual information pertaining to the site and the proposed works that the proposed development, either individually or in combination with other plans/projects, would not have any significant effects on a European site.

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

The Council stated that the applicant complied with Policy RH-P-3 of the Development Plan and noted that a NIS had been submitted. It considered that subject to compliance with its conditions, the development could be integrated into the coastal environment.

## 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 acceptability in principle of the proposed development at this location;
- its impact on visual amenity and rural character;
- its impact on the appellant's property;
- its impact on road safety;
- its impact on public health; and
- whether it can be ascertained that the development would not adversely affect the integrity of the Donegal Bay (Murvagh) SAC or the Donegal Bay SPA.

### 7.2. Acceptability in Principle

7.2.1. A note on the Council's supplementary rural housing application form strongly advises prospective applicants to provide a comprehensive and complete range of documentary evidence which specifically demonstrates their circumstances of housing need within the scope and categories of the relevant rural housing policy and without lacunae. It says that a statement in the absence of evidence will not be sufficient.

7.2.2. The applicant claims to have a vital link to the area by reason of the existence in the same rural area of long-established ties for over 30 years with immediate family members. The Councillor's letter supports this claim but provides no further information. It does not identify the family members, say exactly where they live or lived, or elaborate on the nature of the applicant's ties with them.

7.2.3. The documentary evidence submitted on behalf of the applicant demonstrates that her brother currently lives about 1.5 kilometres from the appeal site on the other side of Mountcharles. It is unclear how long he has lived there and whether the applicant is relying on her ties with him to support her case.

7.2.4. In my opinion, the information provided is insufficient to demonstrate that the applicant has a vital link to this rural area, that the proposal complies with Policy RH-P-3, or that

the development is acceptable in principle at this location. I consider that this matter is of such fundamental importance that permission should be refused.

### **7.3. Visual Amenity and Rural Character**

7.3.1. It seems to me that the proposed design draws on traditional attributes of rural Irish domestic architecture and is generally in accordance with Policy RH-P-9 of the Development Plan and the design principles set out in Appendix 4. The twin pitched roofs and white rendered gables would be the most prominent elements in the landscape. The more subdued stone cladding at lower ground floor level would not attract attention when seen from public vantage points.

7.3.2. The amount of excavation required would not be excessive in my view. However, when seen from the critical viewpoint on the public road to the west of the site, the proposed dwelling, even with a restricted FFL of 14 metres, would not integrate satisfactorily into the landscape as required by Policies RH-P-1, RH-P-2 and NH-P-7 of the Development Plan. The site occupies an elevated position and lacks natural features, such as trees and other vegetation, which could help to blend the building into its surroundings. The proposed development would be an obtrusive feature in this coastal area and would detract from its high scenic amenity.

7.3.3. There is a history stretching back over quarter of a century of planning permissions being granted for a dwelling at the appeal site, all of which have expired. The dwelling under construction on the site immediately to the east is not well integrated into the landscape and there is another large dwelling immediately to the east of it. While these buildings now contribute to the character of this part of the countryside, the proposed development would in my judgement involve the expansion of a suburban pattern of development in the rural area and further erode its rural character. I therefore conclude that permission should be refused on grounds of damage to visual amenity and rural character.

### **7.4. Impact on Appellant's Property**

7.4.1. The proposed dwelling, with its large areas of glazing, would overlook land identified by the appellant as being in his ownership. It could pose a design challenge were he to make a planning application for a dwelling but he would also have to meet the relevant planning policy criteria for a new dwelling in the countryside. So far as I am aware, there is no current application relating to his land. As there is no existing

residential property whose amenity would be affected by the proposed dwelling, I am not persuaded that its impact on the appellant's property is of such significance as to warrant the withholding of planning permission.

## **7.5. Road Safety**

7.5.1. It is undisputed that the private laneway from which the proposed dwelling would take access is in need of improvement at the place where it passes over the stream to the west of the site. It can be inferred from the site location map that the applicant does not control the land necessary to carry out the required works. It seems to me that the proposed development could be tied to the improvement works by imposing a negative condition specifying that the development shall not be commenced until the remedial works to the bridge as depicted on the resubmitted drawings have been carried out to the satisfaction of the Council. In my opinion, the condition devised by the Council, prohibiting occupation of the dwelling until the works are done, would be difficult to enforce and could prove to be ineffective.

7.5.2. The visibility standards set out in the County Development Plan are not applicable to accesses on to private lanes. The vision line to the west of the site as depicted on the site layout plan crosses third party land. However, the area it impinges on is flat and has no features that obstruct visibility from the proposed site entrance. Clear visibility is also available in an eastward direction from the proposed entrance. I am satisfied, therefore, that adequate vision lines are already in place in both directions.

## **7.6. Public Health**

7.6.1. The Environmental Protection Agency (EPA) Code of Practice for Wastewater Treatment and Disposal Systems Serving Single Houses (2021) provides statutory guidance which applies to site assessments for installations to serve developments with a population equivalent of less than or equal to 10.

7.6.2. The applicant's Site Suitability Assessment Report states that ground conditions within the site are relatively firm and dry under foot, which generally accords with my own on-site observations. It places the site within Groundwater Protection Response Category R1, acceptable subject to normal good practice. It records the depth of the trial hole as 2.4 metres. Bedrock was not encountered and the water table was not penetrated. The soil/subsoil was characterised as gravelly sand SILT/CLAY for the



first 0.3 metres down and gravely sand CLAY thereafter. The likely percolation values were assessed as >41, which is consistent with Table 5.2 in the EPA Code of Practice.

7.6.3. An average subsurface percolation value of 46.92 minutes per 25 millimetres was established. It was concluded that the site is potentially suitable for a secondary packaged wastewater treatment system and polishing filter discharging to groundwater. This conclusion is consistent with Table 6.4 in the EPA Code of Practice. The report acknowledges that there is insufficient area to accommodate percolation arrangements for a traditional septic tank system.

7.6.4. I am satisfied that provided the proposed wastewater treatment system is independently certified by a competent body and operated and maintained in strict accordance with the supplier's instructions and the EPAS Code of Practice, the proposed development would not be prejudicial to public health.

## 7.7. **Appropriate Assessment**

7.7.1. The planning authority decided, and the applicant accepted, that it could not be excluded on the basis of objective information that the proposed development would have a significant effect on the SCA and/or the SPA at Donegal Bay, individually or in combination with other plans or projects. The applicant therefore presented an AA screening report and Stage 2 NIS.

7.7.2. It is apparent from Article 6.3 of the Habitats Directive (92/43/EEC) and from Section 177V(3) of the Planning and Development Act 2000 that, in the light of the conclusions of the AA, the Board may grant consent for proposed development only after having ascertained (made certain) that it will not adversely affect the integrity of the designated sites. The judgment of the European Court of Justice in the *Waddenzee* case (C-127/02) is authority for the proposition that no reasonable scientific doubt must remain as to the absence of such adverse effects.

7.7.3. The Stage 2 NIS says there would be no loss of any Natura 2000 site area and no loss or fragmentation of habitats or species upon which any Natura 2000 site qualifies for its conservation status as a consequence of permitting the proposed development to proceed. This would be due to the nature and limited scale of the development and the separation distance between the site works and the Natura 2000 sites. I am content with this finding.

- 7.7.4. Following an initial screening exercise, the Council asked the applicant to provide further information on the potential impacts caused by deterioration of the water quality of Donegal Bay SAC/SPA. The Stage 2 NIS says that due to the precautionary and mitigation measures incorporated in the method statement for the construction works, the development would not cause deterioration of water quality which would have a negative impact on the SPA/SAC. On the basis that adherence to the method statement could be secured by a planning condition, I accept this finding.
- 7.7.5. The Stage 2 NIS asserts that the development would have no significant impact on surface water quality post construction. I accept that the proposed wastewater treatment system and polishing filter, if properly certified, operated and maintained, would not pose a water quality risk.
- 7.7.6. The site layout plan shows storm water from impermeable surfaces in the upper part of the site being discharged into soakaways to be designed by a civil engineer. As depicted, the soakaways would be well separated from, but not down gradient of, the percolation area. It seems unlikely that storm water from the lower part of the steep access driveway would find its way into the soakaways. It would instead enter the roadside drain before discharging to the small river to the west and thence into Donegal Bay.
- 7.7.7. The Council attached a condition to its decision requiring incorporation in the site entrance of a drainage trap together with suitable drainage pipework in order to prevent flooding. It seems to me that it would also be necessary to require installation at the same location of an interceptor unit of suitable specification and adequate capacity to ensure that all potentially pollutant runoff is removed prior to discharge. This could also be secured by a planning condition. Subject to these safeguards, I am satisfied that the proposed development would not lead to a deterioration of the water quality of Donegal Bay.
- 7.7.8. The Stage 2 NIS considers potential effects of the proposed development in combination with the current Donegal County Development Plan. It notes that the Plan had itself been subject to AA and that its policies and objectives were devised to avoid measures that would likely have a significant adverse effect on the integrity of the European sites.

7.7.9. The Stage 2 NIS also considers potential in-combination effects with other developments, existing, finished and proposed within about 300 metres of the appeal site in the past 10 years. It assumes that in granting planning permission for these and other neighbouring developments, Donegal County Council as competent authority will have undertaken AA screening.

7.7.10. The Stage 2 NIS makes no specific reference to the permissions granted for the dwelling under construction immediately to the east of the appeal site (16/51250 and 22/50663) or to the recent permission for a dwelling at the eastern end of the private lane (23/51320). The Council screened both developments were screened for AA and in each case determined that it could be excluded on the basis of objective scientific information that the development would have a significant effect on the SAC or SPA.

7.7.11. The Stage 2 NIS concluded that the proposed development would have no cumulative effect on the Natura 2000 sites in combination with other plans or projects. Based on the foregoing analysis, I accept this finding.

7.7.12. Having carefully reviewed the Stage 2 NIS and the other information available to me, I am satisfied, beyond reasonable scientific doubt, that the proposed development, if permitted, would not adversely affect the integrity of the Donegal Bay (Murvagh) SAC or the Donegal Bay SPA.

## **8.0 Recommendation**

8.1. I recommend that permission be refused.

## **9.0 Reasons and Considerations**

9.1 Insufficient information has been provided to demonstrate that the applicant has a vital link to this rural area by reason of the existence in the rural area of long established ties with immediate family members for a minimum period of seven years. The proposed development would therefore be contrary to Policy RH-P-3 of the County

Donegal Development Plan 2018 to 2024 and to the proper planning and sustainable development of the area.

The proposed development would not integrate satisfactorily into the landscape. It would be an obtrusive feature in this coastal area and detract from its high scenic amenity. It would involve the expansion of a suburban pattern of development in the rural area and further erode its rural character. It would therefore be contrary to Policies RH-P-1, RH-P-2 and NH-P-7 of the County Donegal Development Plan 2018 to 2024 and to the proper planning and sustainable development of the area.

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

28<sup>th</sup> December 2023