



Development	Construction of a dwelling with on site water treatment system and all associated site development works.		
Location	Aghaglasson, Gleneely, Lifford PO, Co. Donegal		
Planning Authority Ref.	23/50323.		
Applicant(s)	Rebecca McDaid.		
Type of Application	Permission.	PA Decision	To Grant Permission.
Type of Appeal	Third Party.	Appellant	James McLaughlin & others (Catherine & Jim McDaid; Jane & Jason Conroy)
Observer(s)	None.		
Date of Site Inspection	15 th March, 2024.	Inspector	Aiden O'Neill.

Context

1. Site Location/ and Description.

The proposed development site is c. 0.228ha in area and is located in a rural area c. 860m to the south-west of the village of Gleneely, north-east Donegal. The site is accessed off a narrow laneway, stated to be a public road, L14112-0, c. 75m from the L1411. The proposed development site itself comprises part of a field of rough pasture, with a significant coverage of rushes. It drops in level by c. 3m from

the south-east to the north-west. A stream runs along the eastern and northern boundary. An overhead line traverses part of the south-eastern area of the site. There is a low gorse bush behind a post and wire fence along the front (northern) boundary, with some bricks dumped at the north-eastern corner of the site. The eastern boundary is characterised by a wooden fence which forms the western boundary of the adjacent two-storey detached dwelling. The western boundaries is characterised by a low hedge. There are 3no. 2-storey dwellings fronting the L1411 to the north-east/east of the proposed development site, and a 2-storey dwelling to the north-west, on the opposite side of the laneway. The L1411 is relatively straight at the junction of the laneway, but dips sharply in the direction of Gleneely.

2. Description of development.

- Permission is sought for the construction of a proposed a single-storey dwelling with attic accommodation 4-bedroom dwelling house, FFL 67.3mOD, with single-storey front porch.
- The proposed dwelling is to be located in the south-western part of the site, and orientated in a northerly direction. The proposed dwelling is 145.50m² in area and is c. 6.633m in height to ridge level, and is set back c. 15m from the front boundary of the proposed development site. The application as originally lodged also included a garage.
- The proposed development also includes a tertiary wastewater treatment system and infiltration area to discharge to ground. Surface water from the dwelling and hardstanding areas is to drain to the existing stream to the south-east. It is stated that the proposed development is to connect to public mains. A new recessed site entrance with gates is proposed, with driveway, as well as landscaping and all associated site works.
- The application includes a Supplementary Application Form from the applicant, which states that the proposed dwelling will be the applicant's primary, principal, permanent residence, that the applicant has not been granted permission on another site, and that the applicant has a vital link to the rural area by reason of the existence of immediate family members in the community for a minimum period of 7 years. The applicant's

grandmother is stated to have been born and raised in Dristernan, Gleneely, and lived there for 7 years or more. A letter of consent from the applicant's grandfather who owns the proposed development site is also included.

- A Traffic Report has been included demonstrating compliance with appropriate standards, however this report relates to a different site.
- A Site Suitability Assessment Report is also included.

The application was lodged on 14th March, 2023. A Request for Further Information dated 5th May, 2023 required the applicant to:

- Submit documentary evidence to enable the Planning Authority to determine whether or not the applicant complies with policy RH-P-3 of the County Development Plan in respect of new housing in Stronger Rural Areas;
- Accurate representation of existing surface water drainage arrangements, noting that the Council has carried out remedial works to alleviate flooding;
- A 5m set back of the roadside boundary from the centreline of the existing road, a proposed 450mm diameter pipe;
- Vision lines of 120m to be provided to the nearside road edge in each direction at a point 2.4m back from the road edge, or an assessment of the 85th percentile alternative;
- Location of adjacent drainage infrastructure.

A response was submitted on 4th August, 2023, enclosing a letter from a local Councillor stating that the applicant's grandparents have lived in Aghaglasson Gleneely all their lives. In addition, a revised site layout plan is submitted showing the 5m setback, the proposed 450mm dia pipe, and the existing arrangements for surface water drainage and that it is proposed to redirect surface water run off to the existing stream to the south-east, which will not add to the existing drainage system in place. A traffic survey was carried out which recorded no movements over 2 hours, that the road leads to a dead-end, with one house using the single-car road with no passing bays, therefore sightlines of 2.4m x 50m are sufficient. No permission was forthcoming to identify adjacent infrastructure, however the same is indicated in accordance with previous application 07/70894.

The Request for Clarification of Further Information dated 24th August, 2023 requiring a revised site layout plan showing the proposed wastewater treatment system further southwest to provide adequate separation.

A response dated 29th August, 2023 provided a revised site layout plan in accordance with the request.

3. Planning History.

There is no previous history associated with the proposed development site.

4. National/Regional/Local Planning Policy (see attached)

- Chapter 6 of the Donegal County Development Plan 2018-2024 sets out the Planning Authority's rural housing policies, which are generally consistent with national and regional planning policy.
- The proposed development site is located in a Stronger Rural Area of the Donegal County Development Plan 2018-2024.

Policy objective RH-P-3 in relation to Stronger Rural Areas states that:

It is a policy of the Council to consider proposals from prospective applicants in need of housing within an area defined as Stronger Rural Area, provided they demonstrate that they can comply with all other relevant policies of this Plan, including RH-P-1 and RH-P2, where the applicant can demonstrate that they comply with one or more of the following:

- Persons whose primary employment is in a rural-based activity with a demonstrated genuine need to live in the locality of that employment base, for example, those working in agriculture, forestry, horticulture etc.;
- Persons with a vital link to the rural area by reason of having lived in this community for a substantial period of their lives (7 years minimum), or by the existence in the rural area of long established ties (7 years minimum) with immediate family members, or by reason of providing care to a person who is an existing resident (7 years minimum);
- Persons who, for exceptional health circumstances, can demonstrate a genuine need to reside in a particular rural location.

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

The Supplementary Application Form that is required to be completed for a rural dwelling requires the following supporting documentary evidence:

- Bona Fide letter from Elected Member of Donegal County Council.
- Letter from employer.
- Birth certificate, marriage certificate, etc.
- Letter from a local clergy.
- Medical evidence.
- Other.

According to Map 7.1.1 'Scenic Amenity' the site is located in an area of Moderate Scenic Amenity. Policy NH-P-7 is thus relevant to the development, stating:

NH-P-7: Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies of this Plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.

Part B; Appendix 4 of the Plan sets out the Building a House in Rural Donegal- A Location, Siting and Design Guide.

The Proposed Material Alterations to the Draft Donegal County Development Plan 2024-2030, recently subject to public consultation. The rural housing policies in the draft Plan are consistent with those of the current Plan.

5. Natural Heritage Designations

- The Magheradrumman Bog SAC (000168) and Magheradrumman Bog pNHA (000168) is located c. 2.8km to the south-west of the proposed development site.

Development, Decision and Grounds of Appeal

6. PA Decision.

The Planning Authority decided to grant permission by Order dated 21st September, 2023 subject to 15no. conditions.

The planner's report dated 12th September, 2023 is the basis for the Planning Authority's decision to grant planning permission.

Condition no. 2(i)(a) requires that the dwelling shall be used as the principal place of residence of the applicant or with the written consent of the Planning Authority by persons who belong to the same category of housing need as the Applicant (c) A section 47 agreement is required to this effect.

Condition no. 3 requires adequate sightlines of 50m to the nearside edge of the road from a setback of 2.4m.

7. Third Party Appeal.

1no. Third Party appeal from 3no. adjoining residents/landowners has been submitted, setting out the following grounds:

- The lane is continually flooded with excess water which comes from the field where the proposed development site is located. This flows down the lane and onto the L1411 and to the properties of the appellants. This has been an issue for over 8 years.
- The Council has carried out remedial works in the area with the assistance of the lead appellant, which the owner of the proposed development site refused to help with, however, it is stated that this is not a long-term solution, as the pipe that runs through the lead appellant's lands now floods the appellants lands. The remedial works included the construction of a dirt trench across the road to channel water into the storm drain at the proposed

development site. The appellants have been advised by the Council that the laneway will flood again.

- The lead appellant has also not given consent for the pipe through his lands to be used by the applicant.
- The infrastructure cannot sustain the current system. The proposed 450mm diameter pipe will cause a backlog in the storm drain.
- The proposed development site is elevated to the surrounding sites, and the run off from it will cause serious difficulties for the surrounding private properties.
- The applicant's family has no connections to this area.

Applicant's Response

- None on file.

8. PA Response

- In its submission dated 13th December, 2023, the Planning Authority stated that it is satisfied that all issues were previously assessed in the course of the planning application.
- It is acknowledged that there have been surface water flooding issues in this area, caused by rain feed and ground water problems. The Council's remedial works has solved the flooding issue. The applicant has been requested to pipe the site frontage with a 450mm pipe to help with the drainage. The route of the storm water drainage was confirmed in the revised site layout plan received on 4th August, 2023 and it is proposed to re-direct the surface water run-off from the dwelling and hardstanding to an existing stream to the south-east. These arrangements should therefore help to divert water away from the area of concern and help to alleviate surface water flooding issues generally.
- In relation to compliance with rural housing policy, the letter from Cllr. Martin McDermott states that the applicant's grandparents lived in Aghaglasson all their lives and that this will be the applicant's permanent residence. It is acknowledged that there are no other forms of evidence to confirm the applicant's rural housing need. However, in accordance with current practice

and procedures, the Planning Authority is satisfied that the principle of the development in terms of rural housing need is acceptable.

- The Board is requested to uphold the decision of the Planning Authority.

Environmental Screening

9. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10. AA Screening

Having regard to the modest nature and scale of development, and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. Having examined all the application and appeal documentation on file, and having regard to relevant policy, I consider that the main issues which require consideration in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

2.2. The main issues are as follows:

- Surface Water issues
- Compliance with Development Plan policies

2.3 Surface Water issues

2.3.1 The appeal raises concerns in relation to localised flooding issues on the public roads in the vicinity of the proposed development, which is stated to originate from the proposed development site itself.

- 2.3.2 It is stated that the owner of the proposed development site had previously refused to assist the Council in carrying out their remedial works to address the issue. It is stated that the lead appellant agreed to pipe water through his land to alleviate the situation, but considers that the remedial works are not a long-term solution. The lead appellant's surrounding lands also now flood.
- 2.3.4 I note the concerns raised by the appellant about localised flooding of properties in the vicinity of the proposed development site. I note the photographs provided in the appeal, which date from 2017/2018, but also more recently from November, 2022. I also note there are no more up-to-date photographs submitted with the appeal.
- 2.3.5 The Planning Authority's response to the appeal acknowledges that there have been surface water flooding issues in this area, but that the remedial works have solved the issues, and that these works have the capacity to take the additional run-off from the proposed development.
- 2.3.6 It is also stated that the applicant is required to pipe the site frontage with a 450mm pipe, and also to re-direct the surface water run-off from the proposed dwelling and hardstanding to an existing stream to the south-east. It is stated that these arrangements should therefore help to divert water away from the area of concern and help to alleviate surface water flooding issues generally.
- 2.3.7 The Planning Authority also states that land drainage systems may be poorly maintained, however it is all landowner's responsibilities to ensure that regular maintenance of their land drainage systems take place. It is stated that this is outside the scope of planning and cannot be addressed through the current planning application.
- 2.3.8 While I acknowledge the concerns raised in the appeal, and also note the unwillingness of the landowner of the proposed development site to assist with the remedial works, I am persuaded by the Planning Authority's response to the appeal that the remedial works carried out on the public roads in the vicinity of the proposed development site has addressed the surface water flooding issues.
- 2.3.9 I also note the most recent Flood Maps available on www.floodinfo.ie. The proposed development site does not include the site within any designated flood zone. Therefore, the proposed development site is not located within an area designated as being prone to flooding.

2.3.10 In relation to matters relating to consent, I note Section 34(13) of the Planning and Development Act, 2000, as amended, which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

2.4 Compliance with Development Plan policies.

2.4.1 The appeal states that the applicant has no connection to the area of the proposed development site.

2.4.2 In order to comply with Policy objective RH-P-3 in relation to Stronger Rural Areas, the applicant must demonstrate that they are either:

- a) Persons whose primary employment is in a rural-based activity with a demonstrated genuine need to live in the locality of that employment base, for example, those working in agriculture, forestry, horticulture etc.;
- b) Persons with a vital link to the rural area by reason of having lived in this community for a substantial period of their lives (7 years minimum), or by the existence in the rural area of long established ties (7 years minimum) with immediate family members, or by reason of providing care to a person who is an existing resident (7 years minimum); or
- c) Persons who, for exceptional health circumstances, can demonstrate a genuine need to reside in a particular rural location.

2.4.3 The applicant has relied on (b) to satisfy her rural connection, i.e., the existence in the rural area of long established ties (7 years minimum) with immediate family members. The applicant has also submitted a letter from the landowner giving consent to apply for planning permission.

2.4.4 In this context, it is noted that the application includes a Supplementary Application Form from the applicant, which states that the proposed dwelling will be the applicant's primary, principal, permanent residence, that the applicant has not been granted permission on another site, and that the applicant has a vital link to the rural area by reason of the existence of immediate family members in the community for a minimum period of 7 years.

2.4.5 The planner's report references the location of the site within a Stronger Rural Area and the need to comply with Policy RH-P-3. The report also notes that in accordance with its practice and procedures, the Planning Authority is satisfied that a letter from an Elected Member supports the applicant's rural housing need.

- 2.4.6 The applicant states in her letter that accompanied the planning application that her *grandmother* was born and raised in *Dristernan*, Gleneely, a townland to the east of Aghaglasson. The applicant also states that her grandfather's son bought a home in Milltown, Gleneely, to the north-west of the proposed development site, and that this home is also associated with the applicant's other grandmother. No details are provided in the letter to confirm if any of these family members lived there for 7 years or more.
- 2.4.7 The letter from Cllr. Martin McDermott provided in response to the Planning Authority's Request for Further Information states that the applicant's *grandparents* lived in *Aghaglasson* all their lives.
- 2.4.8 The information provided in terms of during the course of the application in relation to this important matter of compliance with rural housing policy is unclear in this context.
- 2.4.9 Policy RH-P-3 of the Plan clearly states that an applicant for a dwelling in a Stronger Rural Area must demonstrate how they can comply with the criteria. The Planning Authority has accepted that a letter from an Elected Member is sufficient evidence, but also acknowledges that there are no other forms of evidence to confirm the applicant's rural housing need.
- 2.4.10 I do not consider there is any evidence in the supporting documentation to demonstrate the applicant can comply with Policy RH-P-3 of the Plan.
- 2.4.11 In addition, the applicant is stated to reside in the townland of Drumnageeragh, Cardonagh, Co. Donegal, which is located to the south-west of Carndonagh, c. 13km from the proposed development site.
- 2.4.12 For these reasons, and based on the information available on file, I consider that the applicant has not provided sufficient evidence to comply with the rural housing policy set out in the Donegal County Development Plan 2028-2024.

3.0 Recommendation

- 3.1. I recommend that permission for the development be refused for the following reasons and considerations.

4.0 Reasons & Considerations

Having regard to the location of the subject site within a 'Stronger Rural Area' in close proximity to Gleneely, where housing is restricted to persons demonstrating local need in accordance with Policy RH-P-3 as set out in the Donegal County Development Plan 2018-2024. The Board is not satisfied, on the basis of the documentation available on file, that the applicant has adequately demonstrated that she comes within the scope of the specific housing need criteria set out in the development plan for a house in this location. In the absence of an identified locally based need for a house at this rural location, it is considered that the proposed development would contribute to the excessive pattern of encroachment of random rural development in the area, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the policies and objectives of the development plan and would be contrary to the proper planning and sustainable development of the area.

Relevant Policies

Donegal County Development Plan 2018-2024

The site is in a rural, unzoned part of County Donegal.

Map 6.2.1 'Rural Area Types' identifies that the site is in a 'Stronger Rural Area'.

Section 6.3.3 of the Plan states that In general, within areas defined as Stronger Rural Areas one-off rural generated housing will be facilitated subject to compliance with all relevant policies and provisions of the County Development Plan.

Policy objective RH-P-3 in relation to Stronger Rural Areas states that:

It is a policy of the Council to consider proposals from prospective applicants in need of housing within an area defined as Stronger Rural Area, provided they demonstrate that they can comply with all other relevant policies of this Plan, including RH-P-1 and RH-P2, where the applicant can demonstrate that they comply with one or more of the following:

- Persons whose primary employment is in a rural-based activity with a demonstrated genuine need to live in the locality of that employment base, for example, those working in agriculture, forestry, horticulture etc.;
- Persons with a vital link to the rural area by reason of having lived in this community for a substantial period of their lives (7 years minimum), or by the existence in the rural area of long established ties (7 years minimum) with immediate family members, or by reason of providing care to a person who is an existing resident (7 years minimum);
- Persons who, for exceptional health circumstances, can demonstrate a genuine need to reside in a particular rural location.

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

Relevant rural housing policies and objectives are:

RH-P-1: It is a policy of the Council that the following requirements apply to all proposals for rural housing:

1. Proposals for individual dwellings shall be subject to the application of Best Practice in relation to the siting, location and design of rural housing as set out in Appendix 4 and shall comply with Policy RH-P-2;
2. Proposals for individual dwellings shall be sited and designed in a manner that enables the development to assimilate into the receiving landscape and that is sensitive to the integrity and character of rural areas as identified in Chapter 7 and Map 7.1.1 of this Plan. Proposals for individual dwellings shall also be located in such a manner so as not to adversely impact on Natura 2000 sites or other designated habitats of conservation importance, prospects or views including views covered by Policy NH-P-17;
3. Any proposed dwelling, either by itself or cumulatively with other existing and/or approved development, shall not negatively impact on protected areas defined by the North Western International River Basin District plan;
4. Site access/egress shall be configured in a manner that does not constitute a hazard to road users or significantly scar the landscape, and shall have regard to Policy T-P15;
5. Any proposal for a new rural dwelling which does not connect to a public sewer or drain shall provide for the safe and efficient disposal of effluent and surface waters in a manner that does not pose a risk to public health and accords with Environmental Protection Agency codes of practice;
6. Proposals for individual dwellings shall be subject to the flood risk management policies of this Plan;
7. In the event of a grant of permission the Council will attach an Occupancy condition which may require the completion of a legal agreement under S47 of the Planning and Development Act 2000 (as amended).

RH-P-2: It is a policy of the Council to consider proposals for a new rural dwelling which meets a demonstrated need (see Policies RH-P-3–RH-P-6) provided the development is of an appropriate quality design, integrates successfully into the landscape, and does not cause a detrimental change to, or further erode the rural

character of the area. In considering the acceptability of a proposal the Council will be guided by the following considerations:-

1. A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in the rural area;
2. A proposed dwelling shall not create or add to ribbon development (see definitions);
3. A proposed dwelling shall not result in a development which by its positioning, siting or location would be detrimental to the amenity of the area or of other rural dwellers or would constitute haphazard development;
4. A proposed dwelling will be unacceptable where it is prominent in the landscape; and shall have regard to Policy T-P-15;
5. A proposed new dwelling will be unacceptable where it fails to blend with the landform, existing trees or vegetation, buildings, slopes or other natural features which can help its integration. Proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. The extent of excavation that may be considered will depend upon the circumstances of the case, including the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings (as elaborated below).

RH-P-4: It is a policy of the Council to consider proposals for new one-off housing within structurally weak rural areas from any prospective applicants with a need for a dwelling house (urban or rural generated need), provided they demonstrate that they can comply with all other relevant policies of this Plan, including RH-P-1 and RH-P-2. New holiday home development will not be permitted in these areas.

RH-O-3: To ensure that new residential development in rural areas provides for genuine rural need.

RH-O-5: To promote rural housing that is located, designed and constructed in a manner that is sustainable and does not detract from the character or quality of the receiving landscape having particular regard to the Landscape Classifications illustrated on Map 7.1.1 and contained within Chapter 7 of this Plan.

According to Map 7.1.1 'Scenic Amenity' the site is located in an area of Moderate Scenic Amenity. Policy NH-P-7 is thus relevant to the development, stating:

NH-P-7: Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies of this Plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.

Part B; Appendix 4 of the Plan sets out the Building a House in Rural Donegal- A Location, Siting and Design Guide.

The Proposed Material Alterations to the Draft County Donegal Development Plan 2024-2030 were recently out to consultation, closing 5th April, 2024. The rural housing policies are consistent with those in the current Plan.

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.



Aiden O'Neill
Planning Inspector

7th April, 2024