



An  
Bord  
Pleanála

## Inspector's Report ABP-320121-24

|                                     |  |
|-------------------------------------|--|
| <b>Development</b>                  | Retention permission for existing sheep shed and retention and completion of an extension to an agricultural lane. |
| <b>Location</b>                     | Croaghbeg, Kilcar, Co. Donegal.  |
| <b>Planning Authority</b>           | Donegal County Council   |
| <b>Planning Authority Reg. Ref.</b> | 2350968  |
| <b>Applicant(s)</b>                 | Shaun Curran.  |
| <b>Type of Application</b>          | Permission.  |
| <b>Planning Authority Decision</b>  | Grant Permission   |
| <b>Type of Appeal</b>               | Third Party  |
| <b>Appellant(s)</b>                 | Michael and Mary Dargan<br>Anne Breslin  |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 21 <sup>st</sup> November 2024   |
| <b>Inspector</b>                    | Ronan O'Connor   |

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## **1.0 Site Location and Description**

- 1.1. The subject site comprises a stated area of 0.577ha in the townland of Croaghbeg, Kilcar. The site comprises sloping lands, sloping in a north-south direction across the site. The immediately adjoining area is characterised by rough grazing on open hillsides with residential development in proximity to the coast. Access to the site is off the adjoining local county road.

## **2.0 Proposed Development**

- 2.1. Retention permission for existing sheep shed and retention and completion of an extension to an agricultural lane.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Grant Retention

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

- 3.2.1. Planning Reports

The first Planner's Report [dated 14/08/2023] is summarised below:

- Retention of the shed acceptable
- Proposed reduction of lane to a maximum of 3m is proposed/embankment on either side
- Will greatly integrate the lane into the hillside
- Embankment to ensure privacy
- Noted solicitor's letter that supports the use of the right of way
- Vision lines not annotated on the plan- FI requested
- Surface water collection details required – FI requested
- AA Screening – No AA required.

- Reference made to Archaeological Impact Assessment – satisfied with content of same.
- FI recommended.

3.2.2. FI was requested on 24<sup>th</sup> August 2024 in relation to the following matters:

1. Surface water collection/disposal
2. Revised site layout denoting vision lines
3. Cross-sections running east-west

3.2.3. FI was submitted on 23<sup>rd</sup> May 2024.

3.2.4. The second Planner's Report [dated 4<sup>th</sup> June 2024] found that the details submitted were acceptable/recommended embankment between the sheep shed and the dwelling to the south.

3.2.5. Recommendation was to grant permission, subject to conditions.

3.2.6. Other Technical Reports

None.

3.2.7. Conditions

No conditions of particular note are attached.

### 3.3. **Prescribed Bodies**

3.3.1. None.

### 3.4. **Third Party Observations**

3.4.1. 2 submissions from third parties were received. The issues raised are similar to those raised in the grounds of appeal below.

## 4.0 **Planning History**

2151596 Retention Permission refused for sheep shed & an access road over lands to the sheep shed [decision date 30/09/2021] for 4 no. reasons as follows:

1. It is a policy of the Council (Policy RH-P-1, County Donegal Development Plan 2018-2024 (as varied)) that site access/egress shall be configured in a manner that does not constitute a hazard to road users or significantly scar the landscape. Having regard to the substantial amount of site works and excavation that has been carried out to facilitate the proposed access to the agricultural building and associated site works, it is considered that the development has resulted in the scarring of the local landscape, is seriously injurious to the visual amenity and character of the host rural environment and sets an undesirable precedent for similar developments which would serve to erode the amenities of this rural area. Accordingly, to permit retention of the development would materially contravene the aforementioned policy provisions of the County Donegal Development Plan 2018-2024 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.
2. It is a policy of the County Donegal Development Plan 2018-2024 (as varied) that “all development proposals comply with the Development and Technical Standards set out in Appendix 3 to promote road safety” – (Policy T-P-15 refers) and it is also a Policy of the Planning Authority (Policy RH-P-1, County Donegal Development Plan 2018-2024 (as varied) that, inter alia, 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. Having regard to the location of the proposed entrance and access on a steeply sloping open hillside and in the absence of:
  - (i) vision lines at the entrance from the site on the L-5325-1
  - (ii) stopping distance standards in each direction
  - (iii) written consent from the landowner to use the right of way
  - (iv) cross sectional drawings of the access route

the Planning Authority is not satisfied that the proposed development can facilitate an access gradient or provide for the safety of road users in accordance with the necessary standards and guidelines and, as a result of the extent of physical alteration and engineering works that have been carried out, has resulted in landscape scarring. Accordingly to permit the proposed

development would endanger public safety by reason of a traffic hazard, would be contrary to the said Policy RH-P-1 and T-P-15 of the County Donegal Development Plan 2018-2024 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.

3. The access road has been constructed in proximity to designated National Monuments DG 097-01701 and DG097-01092. It is a policy of the County Donegal Development Plan 2018-2024 (as varied) to “a) Protect the character of National Monuments and Recorded Monuments and to manage development which would be considered to (physically) intrude upon or inhibit the enjoyment of the amenities of these sites. b) Protect the settings of and views from such archaeological monuments save to the extent necessary to allow for the provision of the TEN-T Priority Route Improvement Project, Donegal.” (Policy AH-P-3 refers). In the absence of any information relating to archaeological assessment of the works that have been carried out, it is considered that the development as constructed has adversely impacted on the setting and character of the National Monuments and to permit retention of the development materially contravenes Policy AH-P-3 of the County Donegal Development Plan 2018-2024 (as varied) and is thereby contrary to the proper planning and sustainable development of the area.
4. On the basis of the information submitted, the Planning Authority is not satisfied that a rationale has been proposed that would justify the scale of roadway that has been constructed having regard to the scale of the existing sheep shed. Accordingly to permit retention of the road as constructed would create an undesirable precedent for similar developments in the rural area and would be contrary to the provisions of the County Donegal Development Plan 2018-2024 (as varied) and contrary to the proper planning and sustainable development of the area.

2251033 Refuse Retention Permission for existing sheep shed and permission for retention and completion for an extension to an existing agricultural lane [decision date 04/08/2022] for 2 no. reasons:

1. It is a policy of the County Donegal Development Plan 2018-2024 (as varied) that “all development proposals comply with the Development and Technical

Standards set out in Appendix 3 to promote road safety” – (Policy T-P-15 refers) and it is also a Policy of the Planning Authority (Policy RH-P-1, County Donegal Development Plan 2018-24 (as varied) that, inter alia, “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.” Having regard to the location of the proposed entrance and access on a steeply sloping open hillside and in the absence of

- (i) vision lines at the entrance from the site on the L-5325-1

- (ii) stopping distance standards in each direction

- (iii) written consent from the landowner to use the right of way

- (iv) cross sectional drawings of the access route

The Planning Authority is not satisfied that the proposed development can facilitate an access gradient or provide for the safety of road users in accordance with the necessary standards and guidelines and, as a result of the extent of physical alteration and engineering works that have been carried out, has resulted in landscape scarring. Accordingly to permit the proposed development would endanger public safety by reason of a traffic hazard, would be contrary to the said Policy RH-P-1 and T-P-15 of the County Donegal Development Plan 2018-2024 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.

2. The access road has been constructed in proximity to designated National Monuments DG 097-01701 and DG097-01092. It is a policy of the County Donegal Development Plan 2018-2024 (as varied) to “(a) Protect the character of National Monuments and Recorded Monuments and to manage development which would be considered to (physically) intrude upon or inhibit the enjoyment of the amenities of these sites. (b) Protect the settings of and views from such archaeological monuments save to the extent necessary to allow for the provision of the TEN-T Priority Route Improvement Project, Donegal” (Policy AH-P-3 refers). In the absence of any information relating to archaeological assessment of the works that have been carried out, it is considered that the development as constructed has adversely impacted on the setting and character of the National Monuments and to permit retention

of the development materially contravenes Policy AH-P-3 of the County Donegal Development Plan 2018-2024 (as varied) and is thereby contrary to the proper planning and sustainable development of the area.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The current Development Plan is County Donegal Development Plan 2024-2030 which was adopted on 16th May 2024 and came into effect on 26th June 2024.<sup>1</sup>

5.1.2. The site lies within a 'Structurally Weak Rural Area' (with reference to Map 6.3.1). The site also lies in an Area of 'High Scenic Amenity' (with reference to Map 11.1).

Objective and Policies of relevance are as follows:

- Objective L-O-1 : To protect, manage and conserve the character, quality and value of the Donegal landscape.
- Policy L-P-2 To protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.
- Policy L-P-3 To safeguard the scenic context, cultural landscape significance, recreational/tourism amenities, and environmental amenities of the County's coastline from inappropriate development, save for strategic infrastructure provision of overriding regional or national public interest. This policy will be implemented by the Council in so far as same can be practicably and reasonably achieved within the context of Strategic Infrastructure Projects including, but not restricted to, the TEN-T Priority Route Improvement Project, Donegal, the Bridgend to County border project scheme, the Buncrana Inner Relief Road and Greenways.

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<sup>1</sup> Save for those provisions of the Plan which are subject to a Draft Ministerial Direction.



- Policy L-P-8 To preserve scenic views between public roads and the sea, lakes and rivers. Such developments shall be considered on the basis of the following criteria. a. whether the integrity of the view has been affected to-date by development; b. whether the development would intrude significantly on the view; and c. whether the development would materially alter the view.

In operating this policy, a reasonable and balanced approach shall be implemented so as to ensure that the policy does not act as a blanket ban on developments between the road and the sea, lakes and river but also seeks to maintain existing landscape qualities in the area.

Policy AYH-P-1: To conserve and protect all forms of archaeological heritage.

## Chapter 16 Technical Standards

### 5.2. Natural Heritage Designations

- 5.2.1. The nearest designated area is the West Donegal Coast SPA (Site Code 004150) which is located approximately 1.4km to the west of the site.

### 5.3. EIA Screening

- 5.3.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a preliminary examination or screening assessment. I refer the Board to Appendix 1.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. 2 no. appeals have been received from (1) Michael & Mary Dargan and (2) Anne Breslin. I have summarised the issues raised in both appeals below:

#### Amenity/Visual Amenity/Impact on Landscape

- Impact on residential amenity

- Impact on the landscape/contrary to Development Plan (NH-P-7)/materially contravenes NH-P-7 (of the previous Development Plan)
- Lane is highly visible/impact on visual amenity

#### Archaeology

- Proximity to National Monuments
- A retrospective archaeological assessment was carried out/would set a precedent/contrary to proper planning and sustainable development

#### Traffic

- Severely restricted sightlines onto the L5325
- Increase in traffic

#### Need/Suitability

- Changes are far in excess of any agricultural need/site is within a Structurally Weak Area
- Shed is not suitable for overwintering of livestock

#### Surface Water/Storm Water

- Storm water flows through the site into the site/no details of surface water disposal from the shed or from the lane
- Has diverted surface water to drains no. capable of carrying same/will increase flood risk
- Alterations were made to the watercourse with no engineering report.
- Proposed surfacing of the works will increase the scale of the water runoff/will increase flood risk

#### Other

- Possible subsistence due to the removal of vegetation
- No detail of collection and disposal of animal east from the shed.
- No evidence laneway previously existed/ariel images attached do no show a laneway

- Will impact on property value

Encl: 2 X Photographs – (Michael & Mary Dargan appeal); 2 X Photographs and 4 X aerial photographs (Anne Breslin appeal).

## 6.2. Applicant Response

6.2.1. None received.

## 6.3. Planning Authority Response

### Archaeology

- PA accept the findings of the archaeological report/was requested to ensure that there was no further archaeological remains in the area.

### Visual Impact/Impact on Landscape

- Weathering of rock and natural revegetation has soften the visual impact
- Limited width of 3m and additional vegetation/banking will render it largely invisible to public view

### Surface Water/Flooding

- Drainage is to a local watercourse/gravel surface of the laneway will facilitate permeability
- No flooding in the 3 years since lane has been there

### Other

- Shed is dry floored/use for holding animals only and at lambing time if needed/waste does not require mechanical means of disposal

### Residential Amenity

- Sheep shed has only occasional use/does not unduly impact on residential amenities

### Traffic

- Limited volume of traffic/narrow width and alignment of the local roadway
- Works are fit for purpose and permit safe egress from the site area

### Scale

- The reduced access lane of 3m width may be created by exempted development under the Planning and Development Regulations, 2001 (as amended).

## 6.4. Observations

6.4.1. None.

## 7.0 Assessment

7.1.1. I would firstly draw the Board's attention to the fact that the application was considered by Donegal County Council under the provisions of the previous Development Plan (County Donegal Development Plan 2018-2024). The current Development Plan is County Donegal Development Plan 2024-2030 which was adopted on 16<sup>th</sup> May 2024 and came into effect on 26<sup>th</sup> June 2024<sup>2</sup>. I have this considered this appeal under the applicable provisions of the current Development Plan.

7.2. The main issues relevant to this appeal are as follows:

- Visual Amenity/Impact on Landscape/Residential Amenity
- Surface Water/Storm Water
- Traffic Issues
- Other

## 7.3. Visual Amenity/Impact on Landscape/Residential Amenity

7.3.1. The site also lies in an Area of 'High Scenic Amenity' (with reference to Map 11.1). Policy L-P-2 seeks to protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan. I note that an appellant has stated that the development will materially contravene Policy NH-P-7 of the previous Development

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<sup>2</sup> Save for those provisions of the Plan which are subject to a Draft Ministerial Direction.

Plan. In relation to same, the equivalent policy in the current Development Plan is Policy L-P-2.

7.3.2. In relation to the laneway and shed proposed for retention, I note that the plans as submitted reduced the extent of the laneway in place to a maximum of 3m in width. It is also proposed to landscape the embankments on the side of the laneway. I share the view of the Planning Authority, and of the appellants, that the initial works carried out were visually intrusive, as evidenced by the photographs on file. However, I also share the view of the Planning Authority that the subsequent weathering of the lane has reduced the visual impact of same. Furthermore, the additional works now proposed, to reduce the width and to incorporate native planting, will further reduce the visual impact of the laneway to an acceptable extent, and I am of the view that the resultant development will integrate with the surrounding landscape and will not adversely affect the character of same. The sheep shed is of a relatively small scale and is not a structure that would appear out of place in a rural agricultural landscape, and, subject to the structure being painted a dark green colour as proposed in the application documents, I am satisfied that the visual appearance of same will be acceptable, and it will not have an adverse impact on visual amenity nor on the character of the landscape, and I am satisfied that the development complies with the relevant landscape policies of the Development Plan, including Policy L-P-2, as referred to above.

7.3.3. In relation to impacts on residential amenity, the use of the laneway and the sheep shed for agricultural purposes would not materially impact the amenity of adjoining houses, noting that such activities are commonplace in such rural areas, and noting also the distance from the nearest dwellinghouse to the shed and laneway (which is approximately 40m south of the laneway). Notwithstanding, the proposed embankments, at 1.5m high, will serve to limit views of the laneway/shed from any residential properties. The shed will be used for holding purposes only and will not be used for overwintering (it is not a slatted shed) and therefore the waste produced will not be substantial.

#### **7.4. Surface Water/Storm Water**

7.4.1. The site layout plan indicates an existing watercourse running through the site. This is not an EPA mapped watercourse but appears to join an EPA mapped watercourse

(unnamed) to the south-east of the site which then discharges to the sea approximately 160m further south. The submitted drawings are not clear how the watercourse is diverted. Notwithstanding, the laneway has been in place for approximately 3 years according to the information on file, and the Planning Authority has stated that there has been no evidence of off-site flooding resulting from the laneway construction. While concerns in relation to potential flooding have been raised in the appeal submissions, such flooding does not appear to have occurred to date and no evidence has been submitted to indicate same. I would also note that the gravelled surface of the laneway is permeable which would reduce any potential flood risk. I am satisfied that a condition can be imposed requiring all surface water drainage works to be carried out in accordance with the requirements of the Planning Authority.

## **7.5. Traffic Issues**

- 7.5.1. The access point would appear to be an existing agricultural access. I note the submission of aerial photography from the appellant. In relation to same it would appear that there was some access and/or laneway in place where the existing access is now. Notwithstanding, the creation of an access at this point is not the subject of this appeal, nor is the extent of any access lane outside of the application boundary.
- 7.5.2. In relation to visibility from the access point, the applicant has shown vision lines of 25m to the north and 50m to the south. I am not of the view the scale of the development would likely result in a material intensification of the use of the existing agricultural access point. I concur with the view of the PA in that the existing local road is a narrow, winding road which in itself will have a limiting effect on vehicular speeds. I am satisfied that that no material impact on the road network will result from the proposed development and that the development does not result in the creation of a traffic hazard.

## **7.6. Archaeology**

- 7.6.1. The application is accompanied by an Archaeological Impact Assessment (May 2023). Therein it is noted that the site is within proximity to the zone of notification for the Recorded Monument 'RMP DG097-017002- Enclosure'. It is also within the vicinity of 'DG097-017001 – Megalithic tomb – court tomb'. It is noted that the works

have had no impact, either physical or visual, on the recorded monuments in the vicinity. It is set out that there is no evidence that archaeological remains that were previously unidentified were disturbed as a result of the construction of the track. It was concluded that no mitigation was required.

7.6.2. In relation to same, I note that the Recorded Monument 'RMP DG097-017002-Enclosure' is located approximately 30m north of the site and Recorded Monument 'DG097-017001 – Megalithic tomb – court tomb' is located approximately 100m north-east of the site. No works have been carried out on same, and there is no evidence the works have impacted on same. I note the laneway and the shed itself would appear to be outside the zone of notification for the enclosure, although a small portion of the zone would appear to encompass an area that will have an embankment. The works are entirely outside the zone of notification for DG097-017001 – Megalithic tomb – court tomb (Figure 4 of the Archaeological Impact Assessment refers). I concur with the statement in the Archaeological Impact Assessment that the reduction of the width of the track from a 6m wayleave to a 3m wayleave, as well as the natural regrowth of vegetation and planting of screening will reduce any visual impacts when viewed from the monuments, notwithstanding that such visibility is limited as existing, due to the undulating nature of the landscape.

7.6.3. I concur with the conclusions as contained within the Archaeological Impact Assessment, and I am satisfied that there has been no significant impact on existing archaeology on the site, nor on the adjacent Recorded Monuments, resulting from the construction of the laneway and the shed. With the proposed works in place, including the reduction in width of the laneway, and the proposed planting, I am satisfied that the setting of said monuments will be preserved and there will be no significant impact on same.

## **7.7. Other Issues**

### Property Value

7.7.1. There is no evidence to suggest that the development proposed for retention and the proposed development will have a detrimental impact on surrounding property value and I am satisfied that this will not be the case.

### Subsidence

- 7.7.2. There is no evidence that subsistence has occurred as a result of the works to date. The proposed planting of the embankments will ensure additional stability and will help to ensure no subsidence occurs at a future date.

## 8.0 AA Screening

- 8.1. Having regard to the minor nature and scale of the development proposed for retention and the proposed development, the site location outside of any protected site, the nature of the receiving environment and the proximity of the lands in question to the nearest European Site (West Donegal Coast SPA- Site Code 004150 - which is located approximately 1.4km to the west of the site), it is my opinion that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## 9.0 Recommendation

- 9.1.1. I recommend that permission is **Granted** for the following reasons and considerations.

## 10.0 Reasons and Considerations

- 10.1.1. Having regard to the nature and scale of the development proposed for retention and the proposed development, it is considered that, subject to compliance with the conditions as set out below, the development would not seriously injure the visual or scenic amenity of the area, would not have an adverse impact on residential amenity, would not have a significant impact on archaeological heritage, and would be acceptable in terms of traffic safety, public health and environmental sustainability. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further



plans and particulars submitted on the 23<sup>rd</sup> Day May 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 agree particulars.

**Reason:** In the interest of clarity.

2. Any and all works required to comply with this permission and the terms and conditions to which it is subject shall be carried out and completed in full within 1 month of the date of Notification of Final Grant.

**Reason:** To define the terms of the permission and to cater for orderly development of the area.

3. Drainage arrangements for the site, including the disposal of surface water shall comply with the requirements of the planning authority for such works and services. No surface water from the site shall be permitted to discharge to the public road and the applicant shall take steps to ensure that no public road water discharges onto site.

**Reason:** To prevent flooding.

4. All landscaping works shall be completed, within the first planting season following the Notification of Final Grant, in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23<sup>rd</sup> Day May 2024. Any trees and hedging which die, are removed or become seriously damaged or diseased, within a period of 3 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of biodiversity and the visual and residential amenity 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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Rónán O'Connor  
Senior Planning Inspector

29<sup>th</sup> November 2024

# Form 1

## EIA Pre-Screening

|  |  |   |                            |
|--|--|---|----------------------------|
| <b>An Bord Pleanála</b><br><b>Case Reference</b>   | 320121-24  |   |                            |
| <b>Proposed Development Summary</b>  | Retention permission for existing sheep shed and retention and completion of an extension to an agricultural lane. |   |                            |
| <b>Development Address</b>   | Croaghbeg, Kilcar, Co. Donegal.  |   |                            |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings) | <b>Yes</b>   | X |                            |
|  | <b>No</b>  |   |                            |
| <b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>  |  |   |                            |
|  |  |   |                            |
| <b>No</b>  | X  |   | No further action required |
| <b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>  |  |   |                            |
|  |  |   |                            |
|  |  |   |                            |
| <b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>   |  |   |                            |
|  |  |   |                            |
| <b>5. Has Schedule 7A information been submitted?</b>  |  |   |                            |
| <b>No</b>  |  |   |                            |
| <b>Yes</b>   |  |   |                            |

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_