



An
Bord
Pleanála

Inspector's Report ABP-320201-24

Development	Dwelling house and all other associated site development works.
Location	Fycorranagh, Letterkenny, Co Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2460444
Applicant(s)	Jason Hegarty
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Michelle Ingram
Observer(s)	None
Date of Site Inspection	17 th October 2024
Inspector	Matthew O'Connor

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Form 2: EIA Preliminary Examination

1.0 Site Location and Description

- 1.1. The appeal site is irregularly shaped with an area of approximately 0.3ha and is located in the townland of Fycorranagh some 4.5km to the southeast of Letterkenny town centre in Co. Donegal. The appeal site comprises an agricultural field situated on the northern side of the L-1094-1 (Local Road).
- 1.2. The subject lands sit roughly 2 metres below the public road and slope downhill gradually from southeast to north. The topography of the surrounding area is lightly undulating. The roadside boundary comprises a small embankment with vegetation growing on the field side. The northern (rear) and western (side) boundaries contain mixed hedgerow. The eastern boundary is undefined as it is within the grassed field. Overhead wires traverse part of the site.
- 1.3. The immediate locality is characterised by a considerable number one-off rural dwellings in individual and linear settings of varying styles which address the public road. There are no Protected Structures or National Monuments within or immediately adjoining the appeal site. The site is not located within a Flood Zone.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of a two-storey dwelling house (225sq.m)
 - Detached domestic garage (37sq.m)
 - Installation of Wastewater Treatment System
 - Provision of a vehicular entrance.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Decision to grant permission for the subject development, subject to 15 no. conditions. I note the following conditions of particular relevance:

- Condition 2: Occupancy condition for 7 (seven) years.

- Condition 3: Provision of 70 metres of sightlines in both directions
- Condition 4: Removal of roadside boundary
- Conditions 6,7,8: Surface water collection, treatment and disposal.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first Planner's Report had regard to the submitted documentation, locational context of the site, site planning history, policy framework of the Development Plan and inter departmental/referral reports.
- In terms of assessment, the Planning Authority noted the proposed development is in an Area Under Strong Urban Influence and that the applicant submitted a bona fide letter from an Elected Member of Donegal County Council which overcomes a previous refusal reason.
- The design and siting of the dwelling were considered acceptable despite concerns of development pressures in the locality.
- Noted that safe vision lines can be achieved from proposed entrance but that vision lines to the south-east traverse third party lands whereby consent is required.
- The Planning Authority noted revisions to proposed DWWTS which addresses previous refusal reason.
- There were no significant concerns raised with respect to water supply or surface water drainage.
- No issues raised with respect to AA or EIA.

Further Information was sought in relation to 1 no. item:

- Submission of written consent from the adjoining Third Party landowner(s) of the point of exit onto the public road which references the site layout, acknowledges the full extent of remedial works required to achieve visibility splays. Details shall include:

- Consent to carry out all required remedial works required to achieve visibility splays across Third Party lands (to southeast of the vehicular entrance to the site); and,
- Consent to locate and maintain the visibility splays across Third Party lands in accordance with the necessary technical standards.

The second Planner's Report provides an analysis of the applicant's Further Information response. The revised Site Layout Plan demonstrating a relocated entrance which does not traverse Third Party lands was acknowledged and deemed acceptable.

The report recommends that permission be granted, subject to a number of recommended conditions.

3.2.2. Other Technical Reports

- Area Roads Engineer - No response received.
- Donegal Roads Office – No objection.

3.3. **Prescribed Bodies**

- Uisce Eireann - No response received.
- Transport Infrastructure Ireland (TII) – Comments returned.

3.4. **Third Party Observations**

3.4.1 One third party observation was received by the Planning Authority. The following issues raised are broadly summarised as follows:

- Number of septic tanks in the area being a threat to ground water.
- A supplementary Rural Housing Application is required.
- A previous application by the applicant was refused on the site.

4.0 **Planning History**

4.1. The following valid planning history is associated on/adjoining the subject site:

2460056 Permission REFUSED for the erection of a dwelling house with septic tank and domestic garage. Applicant: Jason Hegarty.

The refusal reasons in respect of this application are stated as follows:

1. *The proposal is contrary to Policy RH-P-5 of the County Donegal Development Plan 2018-2024 (as varied) in that evidence of a genuine need and vital link to the area in the vicinity of the application site for a period of at least 7 years has not been demonstrated. Accordingly, to permit the development would materially contravene the aforementioned policy of the County Donegal Development Plan 2018-2024 (as varied) and would therefore be contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the separation distance between the proposed percolation area and the existing land drain, the proposal is contrary to Policy RH-P-1 of the County Donegal Development Plan 2018-2024 (as varied), in that it has not been demonstrated that the subject site can cater for the safe and effective treatment and disposal of effluent in accordance with the Environmental Protection Agency codes of practice and accordingly, to permit the proposed development would be prejudicial to public health and would therefore be contrary to the aforementioned policy of the County Donegal Development Plan 2018-2024 (as varied) and thereby contrary to the proper planning and sustainable development of the area.*

971626 Permission GRANTED for the erection of domestic garage/store and entrance. Applicant: Joseph Hegarty.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The application was assessed by Donegal County Council in accordance with the policies and objectives of the County Donegal Development Plan 2018-2024. The County Donegal Development Plan 2024-2030 was adopted by Donegal County Council on the 16th of May 2024 and came into effect on the 26th of June 2024 – with the exception of parts of the Plan affected by a Draft Ministerial Direction. I have

assessed the proposal under the provisions of the operative Development Plan, namely the County Donegal Development Plan 2024-2030.

5.1.2. The appeal site is located in a rural area of County Donegal which is not within a designated/zoned settlement. According to Map 6.3.1: Rural Area Types of the Development Plan, the appeal site is located in an 'Area Under Strong Urban Influence'.

5.1.3. Chapter 6 of the Development Plan relates to 'Housing' and contains policies and objectives in respect of residential development. Section 6.3 of the Development Plan contains commentary on Rural Housing and the following objectives are considered relevant to the subject proposal:

RH-O-1 To ensure that new residential development in rural areas provides for genuine rural need.

RH-O-2 To protect rural 'Areas Under Strong Urban Influence', rural 'Areas Under Strong Holiday Home Influence', and rural areas immediately outside towns from intensive levels of unsustainable urban/suburban residential development.

RH-O-4 To ensure that rural housing is located, designed and constructed in a manner that does not detract from the character or quality of the receiving landscape having particular regard to Map 11.1: 'Scenic Amenity' of this Plan.

The appeal site is located in an 'Area Under Strong Urban Influence' where the following policy is relevant:

RH-P-1 To consider proposals for new one-off rural housing within 'Areas Under Strong Urban Influence' from prospective applicants that can provide evidence of a demonstrable economic or social need (see 'Definitions') to live in these areas including, for example, the provision of evidence that they, or their parents or grandparents, have resided at some time within the area under strong urban influence in the vicinity of the application site for a

period of at least 7 years. The foregoing is subject to compliance with other relevant policies of this plan, including Policy RH-P-9.

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 homes will not be permitted in these areas.

With respect to Location, Siting and Design and Other Detailed Planning Considerations, the following policy is relevant:

RH-P-9 (a) Proposals for individual dwellings (including refurbishment, replacement and/or extension projects) shall be sited and designed in a manner that is sensitive to the integrity and character of rural areas as identified in Map 11.1: 'Scenic Amenity' of this Plan, and that enables the development to be assimilated into the receiving landscape. Proposals shall be subject to the application of best practice in relation to the siting, location and design of rural housing as set out in Donegal County Council's 'Rural Housing Location, Siting and Design Guide'. In applying these principles, the Council will be guided by the following considerations:-

- i. A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in the rural area;*
- ii. A proposed dwelling shall not create or add to ribbon development (see definitions);*
- iii. 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;*

- iv. *A proposed dwelling will be unacceptable where it is prominent in the landscape;*
- v. *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.*

(b) Proposals for individual dwellings shall also be assessed against the following criteria:

- i. *the need to avoid any adverse impact on Natura 2000 sites or other designated habitats of conservation importance, prospects or views including views covered by Policy L-P-8;*
- ii. *the need to avoid any negative impacts on protected areas defined by the River Basin District plan in place at the time;*
- iii. *the site access/egress being configured in a manner that does not constitute a hazard to road users or significantly scar the landscape;*
- iv. *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;*
- v. *Compliance with the flood risk management policies of this Plan;*

(c) 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).

5.1.4. As detailed in Map 11.1: 'Scenic Amenity' of the Development Plan, the appeal site is situated in an 'Area of High Scenic Amenity'. According to the definition contained in Chapter 11: 'Natural, Built, and Archaeological Heritage' of the Development Plan, these are *'landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and form a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan'*.

5.1.5. The following objective and policy are relevant:

L-O-1 To protect, manage and conserve the character, quality and value of the Donegal landscape.

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.

5.1.6. Chapter 8 of the Development Plan relates to 'Infrastructure' and contains policies and objectives in respect of residential development.

WW-O-3 To facilitate the provision of an adequate, reliable and clean supply of drinking water in accordance with relevant standards, including the protection of drinking water sources, and the provision of new/upgraded water collection, treatment, and distribution infrastructure.

WW-P-2 Ensure that new developments: a. do not have an adverse impact on surface and ground water quality, drinking water supplies, Bathing Waters and aquatic ecology (including Water dependent qualifying interests within Natura 2000 sites); and b. do not hinder the achievement of, and are not contrary to: i. The objectives of the EU Water Framework Directive. ii. EU Habitats and Bird Directives. iii. The associated Programme of Measures in the River Basin Management Plan 2022-2027 including any associated

Water Protection or Restoration Programmes. iv. Drinking Water Safety Plan. v. The Guidelines on the Protection of Fisheries During Construction Works In and Adjacent To Waters (IFI, 2016).

WW-P-6 Facilitate development in urban or rural settings for single dwellings or other developments to be maintained in single ownership with a projected PE <10 in unsewered areas proposing the provision of effluent treatment by means of an independent wastewater treatment system where such systems:

- A. Demonstrate compliance with the EPA's *Code of Practice for Domestic Waste water Treatment Systems (PE <10) (EPA 2021)* or any subsequent or updated code of practice.
- B. Would not result in an over concentration or over proliferation of such systems in an area which cumulatively would be detrimental to public health or water quality.
- C. Otherwise comply with Policy WW-P-2

5.2. Other Relevant Guidance

Rural Housing – Location Siting and Design Guide

'Building a House in Rural Donegal - A Location, Siting and Design Guide' is a guide to provide assistance to persons involved in the planning and development process of designing a house in the countryside. The document is specific to the character of Donegal and provides guidance on visual impacts and design elements.

EPA Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021

This document sets out a methodology for site assessment and selection and maintenance of Domestic Waste Water Treatment Systems including guidance on appropriate percolation values for different types of systems, setback distance and sizing of percolation areas.

5.3. Natural Heritage Designations

5.3.1. The appeal site is not located on or within proximity to any designated Natura 2000 sites, with the nearest designated site being the Lough Swilly Special Area of

Conservation (Site Code: 002287) which is located approximately 1.7km to the north of the site and is also indicated as the Lough Swilly Including Big Isle, Blanket Nook & Inch Lake proposed Natural Heritage Area (Code: 000166).

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the development, which is for a one-off dwelling in a rural area, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required. See Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

The Third Party appeal has been received in relation to the Planning Authority's decision to grant permission. The grounds of appeal are submitted from the neighbouring property to the south and include some of the matters raised in the Appellant's original planning submission to the Planning Authority. The grounds of appeal can be summarised as follows:

- Applicant does not comply with Policy RH-P-5 (Genuine Need for one-off rural housing in Area under Strong Urban Influence) of the Development Plan.
- Applicant lives in Cork and is claimed to be unknown to a former County Councillor who provided a representation.
- Applicant has falsely claimed ownership of land. Applicant is joint owner with other persons.
- It is claimed that the site will not be family home but will be sold.
- No reference on application to previous application on the lands 24/60056 which was refused permission.
- Appellant's entrance has not been accurately indicated and has been misapplied.
- Sightlines have not been accurately detailed and no consent has been given to adjust the banking.

- The site is situated in a flood zone. DCC had to reinstate ditch bordering road due to flooding.
- The area is densely populated and will have many septic tanks.

6.2. **Applicant Response**

- No response received.

6.3. **Planning Authority Response**

- A response has been received from the Planning Authority which informs that the name of one third party submission was not included in the Planner's Report in error. The Planning Authority confirms its decision.

6.4. **Observations**

- There are no observations.

7.0 **Assessment**

Having examined the application details, the appeal and all other documentation on file, the reports of the Planning Authority, having conducted an inspection of the site, and having reviewed relevant planning policies and guidance, I am satisfied that the main issues to be considered are those raised by the Third Party in their grounds of appeal. I am satisfied that no other substantive issues arise. This appeal can be addressed under the following relevant headings:

- Principle of Development (Compliance with the Rural Housing Strategy)
- Siting & Design
- Wastewater Treatment & Drainage
- Access & Sightlines
- Flood Risk
- Appropriate Assessment (Screening)

7.1. Principle of Development (Compliance with the Rural Housing Strategy)

7.1.1. The grounds of appeal raise the applicant's genuine rural housing need in compliance with the rural housing strategy of the County Donegal Development Plan 2024-2030. The appellant claims that the applicant resides in County Cork and that compliance with the rural housing policy is based on a bona fide letter from an Elected Member of Donegal County Council.

7.1.2. The appeal site is located approximately 4.5km to the south-east of Letterkenny town centre, in an area identified in Map 6.3.1: Rural Area Types of the Development Plan as an 'Area Under Strong Urban Influence'. RH-P-1 is applicable and informs that rural housing is permissible in this area where applicants can provide evidence of a demonstrable economic or social need to live in the area (e.g. provision of evidence that they, or their parents or grandparents, have resided at some time within the vicinity of the application site for a period of at least 7 years). It is also required that developments comply with other relevant policies of this plan including Policy RH-P-9 (Location, Siting and Design and Other Detailed Planning Considerations).

7.1.3. In considering what constitutes an 'Economic' or 'Social' need, the Development Plan includes the following definitions:

'Economic Need'

Persons working full-time or part-time in rural areas including:

- *Full-time farming, forestry, or marine related occupations,*
- *Part time occupations where the predominant occupation is farming/natural resource related.*
- *Persons whose work is intrinsically linked to rural areas such as teachers in rural schools.*

'Social Need'

Persons who are Intrinsic part of the Rural Community including:

- *Farmers, their sons, and daughters and or any persons taking over the ownership and running of farms.,*
- *People who have lived most of their lives in rural areas.*
- *Returning emigrants who lived for substantial parts of their lives in rural areas.*

7.1.4. A Supplementary Rural Housing Application Form was submitted with the application and the applicant has indicated that they have lived '7 Years Plus' at Fycorranagh and that their parents residency at Fycorranagh is 'All Life'. In terms of supporting documentary evidence, the applicant has solely relied on a Bona Fide Letter from an Elected Member of Donegal County Council. From my review of the appeal file, I note this letter was provided by an Elected Member, Cllr. John O'Donnell, dated 25th March 2024, who indicated that the applicant complied with Policies RH-P-1, RH-P-2 and RH-P-5 of the County Donegal Development Plan 2018-2024. On this matter, I remind the Board that the application was assessed by the Planning Authority under the County Donegal Development Plan 2018-2024 which has since been superseded by the County Donegal Development Plan 2024-2030. I note that policy RH-P-5 of the previous Development Plan stated that consideration would be given to proposals for new one-off rural housing in areas under strong urban influence from prospective applicants that have demonstrated a genuine need for a new dwelling house and who can provide evidence that they, or their parents or grandparents, have resided at some time within the area under strong urban influence in the vicinity of the application site for a period of at least 7 years.

7.1.5. According to the assessment of the Planning Authority, no other forms of evidence were submitted with the application to confirm the applicant's rural housing need such as a Birth Certificate, Marriage Certificate, Utility Bills, School Reports, or letters from employers). The Planning Authority make reference to practice and procedures of Donegal County Council and is satisfied that the principle of development is acceptable based on the submitted bona fide letter.

7.1.6. I have considered the information submitted with the application and matters raised in the appeal and I do not consider the applicant has demonstrated compliance with Policy RH-P-1 of the Development Plan. In my view, the applicant has failed to provide any information or evidence to substantiate either a genuine 'Economic' or 'Social'

need to live in the area to support the subject application. In addition, I consider that the applicant has failed to adequately demonstrate that they, their parents, or grandparents have resided in the vicinity of the application site for a period of at least 7 years. It is my view that such information is essential to establish long-standing links/ties to the subject area.

7.1.7. I am not satisfied that a Letter of Support from an Elected Member or a stated family connection to the area (without any supporting material) constitutes an adequate basis from which to consider a grant of permission. While such a bona fide letter may have been deemed acceptable to the Planning Authority, I consider that it constitutes only internal procedure/practice rather than an adopted policy context enshrined in the Development Plan. The area surrounding the appeal site displays significant pressures for rural housing and is adequately defined as an Area Under Strong Urban Influence and it is my view that the development of further one-off housing in this rural area without adequate justification would only serve to undermine the role of Letterkenny as a Regional Growth Driver in the Settlement Hierarchy for County Donegal which may undermine its ability for economic growth, urban consolidation and service provision.

7.1.8. To conclude, I consider that the applicant has failed to demonstrate a functional connection to this rural area and has provide no demonstrable 'Economic' or 'Social' need to live in the rural area in compliance with policy RH-P-1 of the County Donegal Development Plan 2024-2030. Permission should therefore be refused on this basis.

7.2. Siting & Design

7.2.1. The appellant does not raise any particular concerns with regard to the siting and design of the proposed dwelling. I note to the Board that the assessment of this appeal represents my *de novo* consideration of all planning matters relating to the proposed development and the issues which have been raised by the appellant regarding the subject proposal. In this regard, siting and design for a single one-off house in a rural area is relevant. I note that Policy RH-P-9 (Location, Siting and Design and Other Detailed Planning Considerations) of Chapter 6 in the Development Plan is relevant with respect to rural housing. Additionally, proposals for rural dwellings must apply

best practice in accordance with the Donegal County Council's Rural Housing Location, Siting, and Design Guide.

- 7.2.2. Having regard to Policy RH-P-9, proposals shall be designed in a manner that is sensitive to the integrity and character of rural areas and that the development assimilates into the receiving landscape through best practice regarding siting, location and design of rural housing. The key criterion seeks to avoid the creation/expansion of a suburban pattern of development; shall not be detrimental to the amenity of the area or of other rural dwellers or constitute haphazard development; and shall not be prominent in the landscape. Additionally, parameters for assessment include avoiding adverse impact on Natura 2000 sites or designated habitats/protected areas and views/prospects; site access/egress; the safe and efficient disposal of effluent and surface waters; and, compliance with flood risk management.
- 7.2.3. In considering the siting and design, I note that the proposed dwelling is centrally located on the site with a set-back of approximately 25 metres from the public road. The set back of the proposed dwelling is broadly in line with the existing shed building and dwellings to the west. The proposed dwelling is generally southwest facing and is slightly angled in addressing the public road. The FFL is indicated as 62.5 which is below the adjoining road level of 66.4 and reflects the undulating nature of the surround terrain.
- 7.2.4. The proposed dwelling has a stated floor area of 225sq.m and contains 4 no. bedrooms. The house-type is a two-storey dwelling with a single-storey element to the side. The dwelling has a ridge height indicated at 8.3 metres. The primary two storey block has a front elevation measuring 13.35 metres in length (excluding single storey side projection) which totals 20.5 metres and has a primary depth of 8.050 metres. The form is relatively simple and the design is a contemporary take on two storey dwelling. The mass of the proposed dwelling has been somewhat broken up with the narrow depth of the two storey element and the adjoining single storey side element in addition to the small front porch projection.
- 7.2.5. The proposed development includes a single storey detached garage to be located to the northwest of the proposed dwelling and is set back to the rear building line. The domestic garage has an indicated floor area of 37sq.m and will comprise a pitched

roof resulting in a maximum height of 4.83 metres. The unit will contain a single garage room and will be served by a main roller door on the front elevation and a standard door on a side elevation. There is a window opening indicated on a side elevation. The applicant has not provided clear landscaping drawings and I consider the Site Layout Plan to be vague in terms of the boundary treatments.

7.2.6. Having reviewed the submitted particulars, I consider that the contemporary design approach of proposed dwelling is broadly in accordance with the policy objectives and design principles included within Policy RH-P-9 of the County Donegal Development Plan 2024-2030 in terms of siting, design, layout and materials. I am satisfied that the size, scale and massing of the dwelling would have a design and appearance that would be consistent when viewed in the context of other dwellings in the immediate locality.

7.2.7. Notwithstanding the above, having inspected the appeal site, I note the extensive proliferation of one-off houses in the immediate area. It is my view that pressure for housing in this Area Under Strong Urban Influence is at a stage which could be reasonably defined as being acute due to the prevalence of one-off houses in the vicinity. I consider that a further dwelling in this location would contribute to a wider pattern of urbanisation which would result in the further erosion of the rural character due to the existing prevalence and over-concentration of one-off houses in this rural area. On this basis, I consider that the proposed development would be contrary to Policy RH-P-9 of the Development Plan as it would not avoid the creation/expansion of a suburban pattern of development and would constitute a haphazard form of development. Therefore, I recommend that planning permission be refused.

7.3. Wastewater Treatment & Drainage

Wastewater Treatment

7.3.1. The proposed development includes the provision of a septic tank and percolation area to serve the dwelling. The appellant claims that the subject area is densely populated and that there are many septic tanks. I note that refusal reason No. 2 of the previous application on the appeal site (Pl. Ref. 2460056) for a dwelling house with septic tank and domestic garage related to insufficient separation distances between the proposed percolation area and the existing land drain which was deemed contrary to

Policy RH-P-1 of the previous Development Plan 2018-2024. In considering the current application, the Planning Authority deemed that this refusal reason had been overcome with the relocation of the proposed wastewater treatment system. However, from my own review of the proposed development, I consider that there is no fundamental change in the siting or location of the percolation area from that previously refused application.

7.3.2. In assessing the proposed development, I note that Policy WW-P-6 of the Development Plan is relevant as it seeks to facilitate development for single dwellings in rural settings served by independent wastewater treatment systems where compliance with the EPA's Code of Practice for Domestic Wastewater Treatment Systems (PE <10) (EPA 2021) is demonstrated; and, where development would not result in an over concentration/ proliferation of such systems which cumulatively would be detrimental to public health or water quality. Furthermore, part (b)(iv) of Policy RH-P-9 (Location, Siting and Design and Other Detailed Planning Considerations) of the Development Plan requires new developments to demonstrate the safe and efficient disposal of effluent in accordance with Environmental Protection Agency codes of practice.

7.3.3. I have reviewed the Site Suitability Assessment Report submitted the Planning Department which indicates the aquifer category as being Poor (PI) and having an 'Extreme' groundwater vulnerability classification. The Groundwater Protection Response Category is identified as 'R2 1' which is detailed in Table E1 (Response Matrix for DWWTSs) of the EPA Code of Practice Domestic Wastewater Treatment Systems as being 'acceptable subject to normal good practice'. The Code of Practice includes the advisory that where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 of the Development Plan are met and the likelihood of microbial pollution is minimised.

7.3.4. The Site Suitability Assessment Report notes that bedrock was encountered at 1.65 metres which is the depth of the trial hole. The soil/sub-soil is classified as topsoil, silt/gravel and gravel pebbles rocks which is firm between 0.1m - 0.2m, uncompact between 0.3m – 0.9m and firm/slightly compact between 1.5m – 1.6m. In respect of the percolation characteristics of the soil, the sub-surface test result is indicated at

27.81min/25mm. I note that where percolation values are demonstrated as being between 3-50, septic tanks and percolation areas are deemed acceptable as per Table 6.4: 'Percolation Values' of the EPA's Code of Practice.

7.3.5. Notwithstanding the results of the percolation tests, I have concerns regarding the suitability of the recommended septic tank and percolation area to discharge to ground water on the site. The Site Characterisation Assessment Report indicates the invert level below the existing ground level as 0.85 metres. According to Table 6.3: 'Minimum unsaturated soil/and/or subsoil depth requirements' of the EPA's Code of Practice, percolation trenches and intermittent soil filters following septic tanks require a minimum depth of 1.2 metres (1200mm) in areas with a 'R2 1' response category. I am of the view that the proposal, as indicated, will only offer 0.80 metres of vertical separation from the bedrock rather than the required 1.2 metres separation for this area category as outlined in the EPA's Code of Practice and would therefore be unacceptable.

7.3.6. Furthermore, I also note that the topographical levels indicated on the Site Layout Plan suggest a slope/fall of approximately 1.5 metres to 2 metres from southeast to northwest across the area of the proposed percolation area. The applicant has not clearly demonstrated the extent of land contouring/alterations required to facilitate the installation of the wastewater treatment system. I would also be of the view that the changes in land levels around the area of the proposed percolation area may likely suggest differing sub-surface characteristics which require more appropriate/suitable forms of wastewater treatment.

7.3.7. Therefore, based on the particulars submitted and taking consideration of my own observations at the site, I conclude that I am not satisfied that proposed septic tank and percolation area is satisfactory to effectively deal with wastewater arising from proposed development. I consider that the system, as proposed, would result in the inefficient treatment of wastewater with potential consequential impacts for microbial contamination of groundwater in the area which appears to already have a high concentration of individual foul systems serving one-off dwellings.

7.3.8. To conclude, I consider that the proposed development would be at a variance with the County Donegal Development Plan 2024-2030, namely Policy RH-P-9(b)(iv) which

require that proposals for new dwellings provide 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; and, Policy WW-P-6 which requires that independent wastewater treatment systems in rural settings demonstrate compliance with the EPA's Code of Practice for Domestic Wastewater Treatment Systems (PE <10) (EPA 2021). Therefore, I am of the view that the proposed development would be prejudicial to public health and planning permission should be refused.

Surface Water

7.3.9. The Site Layout Plan indicates that surface water arising from the proposed development is to discharge into a piped land drain. This drain is shown on the submitted drawings as running from a southwest to northeast direction from the southeastern extent of the appeal site. No further details of the proposed drainage system are provided. I note that neither the Planning Authority nor the appellant have expressed concerns regarding surface water disposal. To this end, I consider that there is nothing in the appeal file which leads me to question the proposed surface water arrangement. Moreover, I am satisfied that details of a surface water drainage system could be reasonably considered through appropriate condition(s) if the Board was minded to grant permission.

7.4. Access & Sightlines

7.4.1. The appellant claims that the entrance serving their residence and sightlines for the proposed development have not been accurately indicated on the submitted particulars. In addition, the appellant states that no consent has been given to the applicant to adjust the roadside banking of the Third Party's property.

7.4.2. The initial proposal indicated a recessed vehicular entrance at the south-eastern corner of the application site with sightlines of 2.4 metres x 70 metres in both directions along the L-1094-1. The south-eastern sightlines bisected a portion of the Third Party lands and detailed a required to taper the existing embankment. The Further Information request from the Planning Authority sought written consent from third party landowner(s) to achieve and maintain visibility. The response of the applicant included a revised Site Layout with a relocated entrance westwards from the initial proposal to

demonstrate 70 metre sightlines to the southeast which require no adaption lands outside of the applicant's control or consent from the Third Party. This arrangement was deemed acceptable to the Planning Authority following the response to Request for Further Information.

7.4.3. I consider that the revisions to the entrance has removed interference with third party landowners and that the applicant has sufficiently demonstrated that adequate sightlines can be achieved in both directions. Furthermore, following an inspection of the subject lands, I am satisfied that the local road is lightly trafficked and that there are reduced traffic speeds due to the incline/decline and associated bend to the southeast of the entrance in addition to the overall width of the carriageway.

7.4.4. I acknowledge the grounds raised by the appellant regarding the lack of detailing of their vehicular access from the submitted planning drawings. That said, I do not consider that the omission of this existing entrance from the submitted particulars inhibited the assessment of the subject proposal on the appeal site. It is also my view that the applicant has accurately detailed the extent of proposed works insofar as they relate to the appeal site.

7.5.5. In conclusion, I consider that the proposed entrance proposed can achieve compliance with required sightlines which would not interfere with adjoining lands or endanger public safety by reason of traffic hazard.

7.5. Flood Risk

7.5.1. The appellant claims that the appeal site is situated in a flood zone and informs that Donegal County Council reinstated the roadside ditch on account of flooding. I note that no technical or quantifiable supporting hydrological information/data to demonstrate sources of flooding and drainage issues on the lands or how the development may result in an adverse impacts on the area from a flooding perspective.

7.5.2. As noted, the site generally slopes from the southeast to the north and I note that there are no significant or major surface hydrological features mapped within or immediately adjacent to the subject site. During my inspection of the site, I observed the lands and associated site boundaries to be in a fair condition with no apparent evidence of

standing water or features associated with ponding on the land - with the exception of some isolated rushes in the lowest parts of the field. The site conditions, in my view, reflect and correspond with the topography of the immediate vicinity. I also note that the Planning Authority raised no concern with respect to the Flood Risk as part of their assessment of the application.

7.5.3. To this end, having regard to the available Flood Maps, I do not consider that the proposed development is located within an area which has been identified as being prone to flooding and I am of the view that there is no reasonable flood risk associated with the appeal site.

8.0 Appropriate Assessment (Screening)

8.1. I have considered the subject development, which comprises the construction of a new dwelling in light of the requirements S177U of the Planning and Development Act 2000 (as amended).

8.2. The subject development is located in a rural area approximately 1.7km from the Lough Swilly Special Area of Conservation (Site Code: 002287). The subject development comprises a single dwelling and has no hydrological or other connection to any European site.

8.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment as there is no conceivable risk to any European site. The reason for this conclusion is as follows:

- The scale and nature of the development;
- The distance to the nearest European site and the lack of connections; and,
- Taking into account the screening determination of the Planning Authority.

8.4. I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore a retrospective Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

9.0 Recommendation

- 9.1. I recommend that permission be REFUSED for the reasons and considerations set out hereunder.

10.0 Reasons and Considerations

1. Having regard to the location of the site in an 'Area Under Strong Urban Influence' as set out in the County Donegal Development Plan 2024-2030, the provisions of Policy RH-P-1 of the Development Plan which requires applicants for new one-off rural housing in areas under strong urban influence to have a demonstrated housing need in the area, and, the documentation on file submitted as part of the application and appeal; the Board considers that, in the absence of a demonstrated housing need at this location, the proposed development would result in a haphazard and unsustainable form of development, would contribute to the 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 proper planning and sustainable development of the area.
2. Having regard to the extent of existing development in the immediate vicinity and the location of the site in an 'Area Under Strong Urban Influence', the Board considers that the proposed development would not avoid the creation/expansion of a suburban pattern of development in this area and constitutes a haphazard form of development which contravenes Policy RH-P-9 of the County Donegal Development Plan 2024 - 2030 which seeks that proposals for individual dwellings be sited and designed in a manner that is sensitive to the integrity and character of rural areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The Board is not satisfied, having regard to the ground conditions and the recommended wastewater treatment system, that effluent arising from the subject development can be satisfactorily treated and disposed of on the site in accordance with the EPA's Code of Practice for Domestic Waste water Treatment Systems (PE

<10) (EPA 2021). It is considered that the proposed development would be at a variance with Policy RH-P-9(b)(iv) and Policy WW-P-6 of the County Donegal Development Plan 2024-2030 and would therefore be prejudicial to public health and would be contrary 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.

Matthew O Connor
Planning Inspector

14th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-320201-24		
Proposed Development Summary	Dwelling house and all other associated site development works.		
Development Address	Fycorranagh, Letterkenny, Co Donegal.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]			
		Threshold	Comment (if relevant)
No		N/A	
Yes	X	Class 10, (b), (i) (threshold is 500 dwelling units)	Proposal is significantly below threshold.
			Conclusion
			No EIAR or Preliminary Examination required
			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320201-24	
Proposed Development Summary	Dwelling house and all other associated site development works.	
Development Address	Fycorranagh, Letterkenny, Co Donegal.	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development.</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposal comprises 1 no. house in a rural area.</p> <p>The proposal will not give rise to the production of significant waste, emissions or pollutants.</p>	<p>No</p> <p>No</p>
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>The size of the dwelling would not be described as exceptional in the context of the existing environment.</p> <p>There are no significant developments within the vicinity of the site which would result in significant cumulative effects/considerations.</p>	<p>No</p> <p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, as well as the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended); 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.</p>	<p>No</p> <p>No</p>

Conclusion		
There is no real likelihood of significant effects on the environment. EIA is <u>not</u> required.	-	-

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)