



An
Bord
Pleanála

Inspector's Report

ABP-320603-24

Development	RETENTION: Demolition of a dwelling, construction of a replacement dwelling and all associated site development works.
Location	Murroe, Dunfanaghy, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2351581
Applicant(s)	Michael and Chanelle Gallagher.
Type of Application	Retention.
Planning Authority Decision	Grant, subject to conditions.
Type of Appeal	Third Party
Appellant(s)	Michael McCallion.
Observer(s)	None.
Date of Site Inspection	3 rd March 2025.
Inspector	Terence McLellan

1.0 Site Location and Description

- 1.1. The subject site measures approximately 0.2 hectares and is located in the townland of Murroe, Dunfanaghy. The site is accessed from the N56, via a short private road that also provides access to a number of traditional style dwellings and agricultural buildings. An open drain/stream runs alongside the private access road, through the site and onwards, discharging to New Lake which is to the north/north-east of the site. The site is currently occupied by a recently constructed part single/part two storey dwelling.

2.0 Retention Development

- 2.1. Retention permission is sought for the demolition of a dwelling and construction of a replacement dwelling with all associated site development works. The replacement dwelling has a floor area of 225.6sqm with a ridge height of 6.9m and FFL of 8.98m.
- 2.2. Permission was originally granted in September 2021 (Planning Reference 21/51412) for the extension and refurbishment of an existing dwelling and the installation of a new wastewater treatment system and all associated site works.
- 2.3. Retention permission is being sought as the existing dwelling was demolished rather than extended. In terms of appearances, the replacement dwelling as built is largely identical to the permitted dwelling in both footprint, scale and appearance. The principal difference being that the dwelling has been repositioned within the site approximately 5.6 metres from the approved location. Further differences include the FFL, parts of the dwelling not being clad in stone and that no chimney has been built.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Retention Permission was issued by Donegal County Council on 1st August 2024 subject to nine generally standard conditions. Condition 9 of the retention permission relates to the provision of a wastewater treatment system and specific criteria that must be met in terms of its location within the site.

3.2. Planning Authority Reports

3.2.1. The first Planner's Report contains the following points of note:

- The principle of the development is already established through the planning history of the site and a replacement dwelling is supported under Policy RH-P-7.
- The dwelling has been relocated 5.6m north eastwards and has a finished floor level 0.3m higher than the permitted dwelling. The dwelling is largely the same footprint/size and design as the permitted dwelling, with minimal alterations from a visual perspective. Siting and design are therefore considered acceptable.
- Separation distances to neighbouring dwellings are such that there would be no issues in relation to overlooking, loss of privacy or residential amenity.
- Wastewater treatment was approved under the permitted scheme. There would be no additional loading and the arrangements remain acceptable.
- Surface and storm water drainage connect to the approved arrangements of the permitted scheme and remain acceptable.

3.2.2. An Ecological Report was requested by way of Further Information on 7th December 2023 in order to establish the risk of significant effects on nearby European sites and to assist the Planning Authority in determining if Appropriate Assessment was required. An Ecological Report was submitted to the Planning Authority on the 11th July 2024 and was considered in the second Planner's Report, which ultimately concluded that Appropriate Assessment was not required. Retention permission was then granted, subject to nine conditions.

3.2.3. Other Technical Reports

3.2.4. **National Roads Division Office (24.11.2023):** The application does not affect the progression of any current national road project. Should the application or any works required directly impact any element of the national road then compliance with TII standards must be demonstrated and approval documented.

3.3. Prescribed Bodies

- 3.3.1. **Transport Infrastructure Ireland (TII) (14.11.2023):** TII advise that there is no record of referral of the previous planning application on this site and notes that there is no reference to the private access road from the national road or relevant national policy in the technical reports. The proposal is at variance with official policy in relation to control of development on/affecting national roads, as it would adversely affect the operation and safety of the national road network. Spatial Planning and National Roads Guidelines for Planning Authorities (January 2012) states that the policy of the Planning Authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kph apply. The proposal would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads.
- 3.3.2. **Uisce Éireann (28.11.2023):** Uisce Éireann notes that the proposal refers to an existing connection for water supply and as such there has been no engagement in the matter of connections to the public network. The response from Uisce Éireann sets out standard advisory notes regarding waste water treatment plants, connections, standards codes and practices and build over/separation distances to assets.

3.4. Third Party Observations

- 3.4.1. One observation was submitted in response to the planning application (the Appellant). The issues raised are set out in the Planner's Report and the submission is on file for the Board's information. I am satisfied that the issues raised are generally captured by the grounds of appeal which are set out in detail in Section 6 below.

4.0 Planning History

Subject Site

- 4.1. **Planning Authority Reference 21/51412:** Permission was granted by Donegal County Council in September 2021 for the erection of an extension and refurbishment of an existing dwellinghouse and installation of a new waste water treatment system with all associated site development work.

Surrounding Sites

4.2. None of relevance.

5.0 Policy Context

5.1. County Donegal Development Plan 2024-2030

- 5.1.1. The planning application was assessed against the County Donegal Development Plan 2018-2024. This has since been superseded by the 2024-2030 development plan which came into effect on the 26th June 2024.
- 5.1.2. The site is located within a 'Structurally Weak Rural Area' and an 'Area of High Scenic Amenity'. High scenic amenity is described as: *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 Co. 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*'.
- 5.1.3. 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.
- 5.1.4. Chapter 6 contains the housing policies. Relevant policies and objectives include:
- 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.
 - RH-P-7: To consider proposals for the refurbishment of derelict traditional buildings (refer to definitions below) within rural areas, for use as either a permanent dwelling or as a holiday home, subject to (inter alia) the following criteria being satisfied:

- a) The proposed development will provide for the retention of the majority of the existing building.
 - b) Proposals for extensions shall respect the character and appearance of the traditional building. The design, size, height and finishes of the proposed refurbishment/ extension must respect the architectural character of the original building type unless otherwise agreed with the Planning Authority, and the finished building must otherwise be of a scale and form such that the development integrates effectively into the host landscape.
 - c) Compliance with the terms of Policy RH-P-9.
- 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).

5.1.5. Chapter 8 contains the infrastructure policies. Objectives of relevance include:

- T-O-10: To safeguard the carrying capacity and safety of:

- i. National Roads and associated junctions in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities (DECLG, 2012) and,
- ii. The R238 Bridgend to Buncrana Regional Road.

5.1.6. Chapter 11 contains policies and objectives regarding natural, built and archaeological heritage. Relevant policies include:

- 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.

5.1.7. Rural Housing Location, Siting and Design Guide 2024-2030.

5.2. Natural Heritage Designations

5.2.1. The site is not located within or immediately adjacent to any European sites. The nearest European sites are as follows:

- Horn Head to Fanad Head SPA (004194) c. 125 metres
- Horn Head and Rinclevan SAC (000147) c.100 metres
- Horn Head and Rinclevan pNHA c. 100 metres

5.3. EIA Screening

5.3.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in the Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A Third Party appeal has been submitted by Hartnett Hayes Solicitors LLP, for and on behalf of the Appellant, against the decision of Donegal County Council to grant retention permission. The grounds of appeal can be summarised as follows:

- Concerns that several questions on the Application Form have been answered incorrectly, notably Question 12 and Question 17 parts (iv, v, and vi). A remedial Environmental Impact Statement is required; the site is in close proximity to a European site.
- The demolished building debris was used as foundation and building material, this material probably contained toxic substances and ‘touches’ the stream. These materials are now seeping into the soil and down the river to the New Lake and the protected sites, causing harm to the protected habitats, plants and birds.
- The site is located within an area of ‘Especially High Scenic Amenity’. A Natura Impact Statement is required.
- The existing building has been demolished and there is no building remaining to be refurbished. The building is 100% new and not a refurbishment or extension.
- The location of the house has changed significantly and has moved 9.5 metres towards the New Lake, and closer to the septic tank and the boundary with the adjoining owner. The building is also now on a higher elevation.
- The change in the location of the dwelling fails to comply with objectives regarding landscape character (RH-O-5 and RH-O-6) and would be in violation of section 6.3.3 (RH-P-1, RH-P-2, and RH-P-9) of the development plan.
- The building looks like a modern urban development. The new plans do not show a chimney or stonework on the house, to reflect the rural area.
- The new building fails to blend into the landscape.

- No suitability assessment was included with the retention application. The previous application was a different site to the new building and should require a complete assessment of suitability.
- Policy requires buildings to run along the contours of the land. The levels were changed on this site resulting in a change to topography and elevation.
- A Supplementary Rural Housing Form was not submitted. The application is different to the previous permission as it is for a new dwelling and not a refurbishment.
- The old dwelling was vacant. The application will be adding new traffic to both the private road and the N56. This is a new house with additional traffic that compromises TII guidelines, and a traffic assessment/traffic safety report is needed. This has been the case with other applications.
- There was no water connection to the existing water mains.
- Another application (18/51309) which was further away from the New Lake had a much more exhaustive study of ecology with concerns raised by the Government and the NPWS. Dispute the Planner's finding of no impact on protected sites.
- Further issues raised with the Planner's Report such as Section 4.3 regarding no additional charges as services are already in place, Section 4.4 where there is an incorrect determination on existing and proposed footprint, Section 4.0 where the Planner's conclusion on TII issues is disputed as there is no assessment to support the Planner's conclusion, and Section 5 where it is disputed that the previous building on this site was ever a dwelling.

6.2. Applicant Response

- 6.2.1. A First Party response was received from Kenneth McCorkell Design and Engineering, for and on behalf of the Applicant. The main points can be summarised as follows:
- The application forms were accurately completed, and the Planning Authority validated the application.

- The revised dwelling location at 5.8 metres was considered acceptable by the Planning Authority with minimal alterations from a visual perspective and acceptable siting.
- The design complies with Part B of Appendix 4 of the CDP and is contemporary in nature. Although now entirely new build the finished building is almost identical to that approved with the main difference being the omission of the roofed outdoor patio for budget reasons.
- The application did not include any request to obtain permission relating to wastewater and therefore did not need a site Suitability Assessment.
- Finished floor level is 0.3m higher than approved. This was considered acceptable and minimal from a visual perspective.
- In terms of supplementary housing, the Applicant spent his entire life in the immediate vicinity of the site. The original permission was for refurbishment and extension but that has now become replacement and will remain the same under rural policies. As a replacement dwelling, rural housing need is not required.
- In traffic terms, the original proposal was not considered to result in intensification of the existing access to the N56. The development is now a replacement dwelling but that does not alter this finding.
- Section B of the Appellant's response is a list of observations and complaints regarding non-compliance with the original permission, which is exactly why a retention permission was applied for and subsequently granted.
- Contrary to the claims of the Appellant, the site had an existing water connection.
- The reference to another site and assessment of ecology/protected sites is completely inaccurate. The site referenced by the Appellant may be further away from New Lake, but it immediately abuts the SAC/SPA.
- The principle of the original application was to provide a home for a local family. Early in the construction process it became clear that retaining the existing building would be difficult due to structural issues and costs.

- The Planning System is not designed to resolve neighbour disputes which is what the Appellant is currently using the process to achieve.

6.3. Planning Authority Response

6.3.1. The response of the Planning Authority can be summarised as follows:

- Having regard to nearby European sites, the Planning Authority requested the submission of an Ecological Report to determine whether or not Appropriate Assessment was required. The report concluded that an Appropriate Assessment was not required which aligned with the Planning Authority's own screening report.
- The Appellant references application (Ref. No. 18/51309) and considers that application to have had a more comprehensive report in relation to impact on wildlife than the current application. The appeal site is located c. 100m from the nearest SAC/SPA and the site referred to by the Appellant immediately adjoining the SPA/SAC. As the appeal site is further away from the SPA/SAC than the other site referred to, it would be expected to be less likely to have an impact on protected sites.
- The Appellant incorrectly states that the site is designated as Especially High Scenic Amenity. The site is in fact designated as High Scenic Amenity.
- In terms of design and landscape impacts, the proposal was assessed against policies relating to rural dwellings. The dwelling has been relocated approximately 5.6m north-eastwards with a slightly higher finished floor level (0.3m) than the permitted scheme. The siting and design of the dwelling were considered to be acceptable.
- In terms of site suitability, the Planning Authority considered the fill material used from the demolition of the dwelling as non-material, there does not appear to be any impact upon the treatment system which was previously approved. Further inspection showed no issues with the soil conditions or with the condition and adequacy of the treatment system.

- No documentation in respect of housing need is required as Policy RH-P-7 of the County Donegal Development Plan 2018-2024 allows the consideration of replacement dwellings.
- There would be no intensification of the existing private access onto the N56 as there had been an existing dwelling on the site previously.
- In terms of previous conditions, the previous development is not the subject of the appeal, and the Applicant has sought to regularise the development through the application for retention permission.
- It is noted that the application form states that there is an existing connection to the public mains.

6.4. Observations

6.4.1. None.

6.5. Further Responses

6.5.1. None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the Local Authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Demolition and Demonstration of Need
- Siting, Design, and Amenity
- Transport
- Other Matters

7.2. Principle of Demolition and Demonstration of Need

- 7.2.1. A key issue for the Appellant is that the existing building has been demolished and on that basis the proposal is now a new dwelling as opposed to a refurbishment or extension. It is further submitted that a supplementary rural housing form was not submitted and that this would be required as the development is a new dwelling and not a refurbishment like the previously approved scheme. The Planning Authority consider the development to be acceptable in this regard and have stated that a needs assessment is not required for a replacement dwelling.
- 7.2.2. Policy references have changed slightly as part of the new development plan. In my view, the principle of a dwelling on this site was clearly accepted. Although the existing dwelling has been demolished rather than refurbished and extended, in my view, very little of the existing dwelling was being retained as part of the approved scheme, with only portions of three external walls being retained and the remainder of the dwelling being demolished. It is evident from the previously approved plans that it would have been impossible to distinguish the retained parts of the existing dwelling from the new build. As such, I have no objection to the retention of the demolition, and I agree with the Planning Authority that a Supplementary Rural Housing form would not be required having regard to both the planning history and the fact that the proposal is for a replacement dwelling.
- 7.2.3. I note that the Appellant questions whether the previous building on site was ever a dwelling. It was clearly considered as such by the Planning Authority in determining the previous application and the Appellant offers no evidence to reinforce any claims to the contrary. I am therefore satisfied that the previous building on site was a dwelling, albeit vacant and in a state of disrepair.

7.3. Siting, Design, and Amenity

- 7.3.1. The Appellant argues that the location of the house has changed significantly, having moved 9.5 metres closer to New Lake, the septic tank, and the boundary with the adjoining landowner. On this basis the Appellant considers the development to be contrary to landscape character objectives as well as policies RH-P-1, RH-P-2 and RH-P-9. It is the view of the Appellant that the dwelling looks like a modern urban development with no stonework or chimney and that it fails to blend into the landscape.
- 7.3.2. For clarity, the dwelling proposed for retention has shifted 5.8 metres to the north east and 2.8 metres to the south. Whilst this would take it closer to the waste water

treatment system and polishing filter, the minimum distances would still be comfortably achieved as would the distances to boundaries. Clearly, the relocation would take the dwelling closer to New Lake but this is incredibly minor in context and I do not consider that the new position of the dwelling would have any significant adverse impact on the landscape additional to that previously considered and I note that it does not intrude on any views illustrated on Map 11.1 of the CDP. Whilst it may slightly alter the view from the Appellant's property, there is no entitlement to a view over a Third Party's land, and in my view, there would be no demonstrable amenity impacts.

- 7.3.3. In design terms the dwelling as built is largely indistinguishable from the approved dwelling. In comparison to the approached scheme, the covered porch has not been constructed, the chimney has been omitted, and the stone cladding has not been installed. I have no issue with the omission of the porch and chimney. On balance, I have no concerns regarding the omission of the stone cladding, however this could be secured by condition if the Board consider it appropriate.
- 7.3.4. It is further submitted that the building sits on a higher elevation than previous, resulting in a change to topography and elevation where policy requires buildings to run along the contours of the land. The site is not a prominent one, it sits at a lower level to the N56 and is surrounded by other rural buildings to the south, west, and north west. The finished floor level may have increased by 300mm however I find this to be minor in context, including in terms of visual impact and impacts on the landscape.
- 7.3.5. I note that the Appellant argues that a suitability assessment was not included with the retention application and that the previous application was a different site to the new building and therefore should require a complete assessment of suitability. I disagree, the dwelling may have been repositioned within the site, but the site itself has not changed, and the waste water treatment system has been fully installed as approved and from my site inspection it appears to be in order and operating as required.

7.4. Transport

- 7.4.1. The Appellant contends that the development, as a new house, would add new/additional traffic to both the private access road and the N56 and that a traffic assessment/traffic safety report is required.

- 7.4.2. TII refer to the Spatial Planning and National Roads Guidelines for Planning Authorities (January 2012) which states that the policy of the Planning Authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kph apply. On this basis, TII consider that the proposal would result in the intensification of an existing direct access to a national road and would be contrary to policy.
- 7.4.3. The development does not constitute a new dwelling in the context referred to above. Whilst I accept that an undoubtedly long term vacant property/site is being brought back into beneficial use, regardless of the issue of demolition/extension versus replacement, the net number of dwellings on site is not increasing. For that reason, I disagree with both the Appellant and TII, the development is a replacement dwelling, it does not increase the number of dwellings on either the private access road or the N56 and in my view would not be contrary to policy on this matter.

7.5. Other Matters

- 7.5.1. Concerns are raised regarding the accuracy of the application form, including answers to questions regarding proximity to European sites. I have addressed appropriate assessment separately. In terms of the application form and supporting documents, the Planning Authority considered them to be accurate and validated the application, and it is not a matter for the Board to regularise any perceived or actual deficiencies or errors made in the assessment of planning application.
- 7.5.2. The Appellant argues that there was no water connection to the existing water mains. The Applicant contends that there has always been an existing water connection, and I note that the Appellant offers to evidence to the contrary. I accept that there was an existing water connection.

8.0 AA Screening

- 8.1. I have addressed the matter of Appropriate Assessment and the concerns raised by the Appellant in Appendix 3 of this report and draw the Board's attention to Step 3 of the table therein.

8.2. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the development individually or in combination with other plans or projects would not be likely to give rise to significant effects on either the Horn Head to Fanad Head SPA (004194) or the Horn Head and Rinclevan SAC (000147) or any other European site, in view of the site Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required. This determination is based on:

- The relatively minor scale of the development.
- The distance and characteristics the hydrological connection.
- The specific nature of the qualifying interests and conservation objectives of the two relevant European sites and the lack of impact mechanisms as a result of the development.
- The lack of ex-situ impacts on wintering birds.

9.0 Water Framework Directive

9.1. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- Small scale nature of the development and short term of the construction phase.
- The nature of the nearest water bodies and the characteristics of the hydrological connection.
- Standard construction measures and mitigation measures.

- 9.2. I conclude that on the basis of objective information, that the development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.0 Recommendation

- 10.1. I recommend that the Board uphold the decision of Donegal County Council and grant retention permission for the reasons and consideration set out below:

11.0 Reasons and Considerations

- 11.1. Having regard to the landscape objectives relating to the site, the provisions of the Donegal County Development Plan with regards to replacement dwellings, and the nature and extent of the development proposed for retention, it is considered that the proposal, subject to the conditions set out below, would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health or the environment and would generally be acceptable in terms of design, traffic safety, amenity, and nature conservation.

12.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application on 18th October 2023 and Further Information received on 11th July 2024 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All relevant conditions attached to previous grant of permission for development at the site, Planning Authority reference 23/51412 shall be strictly adhered to.

Reason: In the interests of clarity and the proper planning and sustainable development of the area.

3. All site boundaries shall be planted with hedgerow of semi-mature species native to the area and at least 5 no. semi-mature broadleaf trees shall be planted on site within first planting season following commencement of development. The trees to be planted shall be a mix selected from the following list of species (unless otherwise agreed in writing with the Planning Authority):

- Sceach Gheal (Hawthorn/Crataegus monogyna)
- Cuileann (Holly/Ilex aquifolium)
- Peine Albanach (Scots Pine/Pinus sylvestris)
- Fionncholl (Whitebeam/Sorbus spss)

Any trees dying within subsequent three years shall be replaced.

Reason: To preserve the amenities 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.

Terence McLellan
Senior Planning Inspector

16th July 2025

Appendix 1 - Form 1 - EIA Pre-Screening

Case Reference	ABP-320603-24
Proposed Development Summary	RETENTION: Demolition of a dwelling, construction of a replacement dwelling and all associated site development works.
Development Address	Murroe, Dunfanaghy, Co. Donegal.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed	

<p>type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Class 10 (b) (i) >500 dwellings.</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2 - Form 2 - EIA Preliminary Examination

Case Reference	ABP-320603-24
Proposed Development Summary	RETENTION: Demolition of a dwelling, construction of a replacement dwelling and all associated site development works.
Development Address	Murroe, Dunfanaghy, Co. Donegal.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The development is for residential on a site where residential is the existing use, replacement residential has been permitted and adjacent sites are in residential use.</p> <p>Demolition works were small scale and related to the previously existing dwelling. Construction materials and activities would have been typical for a residential development of this nature and scale.</p> <p>The use of fuels and materials would have been typical for such construction projects and impacts would have been local and temporary in nature, given standard construction techniques, methods and best practice.</p> <p>In terms of accidents, no significant risk is anticipated having regard to the nature and scale of the development. Any risk arising from demolition and construction would have been localised and temporary in nature.</p> <p>No existing or permitted developments have been identified in the immediate vicinity that would have given rise to significant cumulative environmental effects with the subject project.</p>
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption	<p>The development would align with the nature of the locality having regard to landscape sensitivities. There would be no significant impact on any protected areas, protected views, built or natural heritage or European Sites.</p>

capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	All development has the potential for some impacts/disturbance during the construction phase such as noise, vibration, dust, air quality and traffic. However, these impacts would have been small scale, short term and temporary.
Conclusion	
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

Appendix 3 - Appropriate Assessment Screening Determination

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics				
Brief description of project		Retention of the demolition of a dwellinghouse, construction of a replacement dwelling and all associated site development works.		
Brief description of development of site characteristics and potential impact mechanisms		The site measures approximately 0.2 hectares, is located in the townland of Murroe, Dunfanaghy, and from the N56, via a short private road. An otherwise open drain/stream is piped through the site, eventually discharging into New Lake which is to the north/north-east of the site and within both the Horn Head to Fanad Head SPA and Horn Head to Rinclevan SAC which are located at distances of 125m and 100m from the site respectively.		
Screening report		An Ecological Report (prepared by Greentrack Environmental Consultants) incorporates an appropriate assessment screening exercise.		
Natura Impact Statement		No.		
Relevant submissions		Various nature conservation issues have been raised by the Appellant regarding the impacts of the development on European sites. See section 6.1 of the Inspector's Report.		
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
The screening report considered sites within a 15km Zone of Influence. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination.				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Horn Head to Fanad Head SPA (004194)	The following qualifying interests have a restore conservation objective: A009 - Fulmar <i>Fulmarus glacialis</i>	c.125 metres	Proximity and connection via surface water and drain.	Yes

	<p>A017 - Cormorant <i>Phalacrocorax carbo</i></p> <p>A019 – Shag <i>Phalacrocorax aristotelis</i></p> <p>A188 - Kittiwake <i>Rissa tridactyla</i></p> <p>A346 - Chough <i>Pyrhocorax pyrrhocorax</i></p> <p>A395 - Greenland White-fronted Goose <i>Anser albifrons flavirostris</i></p> <p>The following qualifying interests have a maintain conservation objective:</p> <p>A045 - Barnacle Goose <i>Branta leucopsis</i></p> <p>A103 - Peregrine <i>Falco peregrinus</i></p> <p>A199 – Guillemot <i>Uria aalge</i></p> <p>A200 - Razorbill <i>Alca torda</i></p>			
Horn Head and Rinclevan SAC (000147)	<p>The following qualifying interests have a maintain conservation objective:</p> <p>1013 Geyer's Whorl Snail <i>Vertigo geyeri</i></p> <p>1364 Grey Seal <i>Halichoerus grypus</i></p> <p>1395 Petalwort <i>Petalophyllum ralfsii</i></p> <p>1833 Slender Naiad <i>Najas flexilis</i></p>	c.100 metres	Proximity and connection via surface water and drain.	Yes.

	<p>2110 Embryonic shifting dunes</p> <p>2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p> <p>2190 Humid dune slacks</p> <p>3130 Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i></p> <p>The following qualifying interests have a restore conservation objective:</p> <p>2170 Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>)</p> <p>21A0 Machairs (* in Ireland).</p>			
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Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

The Horn Head to Fanad Head SPA and the Horn Head to Rinclevan SAC are located 100m and 120m from the site respectively. There is a connection from the site to these Natura 2000 sites via the open drain that runs through the site. The Applicant's Appropriate Assessment Screening exercise is contained within the Ecological Report prepared by Greentrack Environmental Consultants (Dated June 2024). The screening exercise considers potential impacts from demolition/construction as well as retention/operation. The screening exercise considers the potential impacts on water quality flowing towards the SAC/SPA via the open drain as well as potential loss of habitat and noise disturbance.

The screening exercise concludes that there would be no loss of habitat/ex situ habitat, no significant water quality impacts due to the characteristics of the hydrological connection, and that no significant noise levels would have been generated on site, with no disturbance to conservation interests. Operationally, the site incorporates standard construction/design measures such as the use of silt traps. The wastewater treatment system and surface water drainage regime have been implemented as previously approved, and the forecourt/parking area is permeable in nature. The

Applicant's screening exercise concludes overall that significant effects are unlikely, and that Appropriate Assessment is not required. This opinion was echoed by the Planning Authority, who also concluded that Appropriate Assessment is not required.

I am generally in agreement with the conclusions of the Applicant's screening exercise as well as the determination of the Planning Authority. However, I note that additional site works were undertaken compared to what was approved as part of the initial planning permission, namely, the piping of the open drain through the site. Originally, this was only piped under the site access but as part of the works undertaken on site, this has now been piped through the length of the site. This has not been referred to in either the Applicant's screening exercise or the Planning Authority report. I have therefore considered this as part of my following screening exercise.

At the outset I would note that the additional site works do not result in any loss of habitat/ex-situ habitat, nor would the works have increased site noise levels during construction to any significant degree, particularly in the context of noise disturbance to the SPA/SAC. As such, the main potential impact from these works relates to potential water quality degradation as a result of silt and sediment. I note that the open drain flows for c. 145 metres before it enters the SAC/SPA and that the route is heavily vegetated which impedes flow (strength and velocity). The drain/stream is very shallow, low volume, and with a slow flow rate, at least at the time of my site inspection, although I note that this correlates with the findings of the Applicant's Ecologist. Whilst I have no doubt that the works to pipe the stream through the site would have resulted in additional siltation/sedimentation of the water, taking together the flow volume/strength, flow rate and the heavily vegetated pathway of the drain and hydrological distance, I am satisfied that the majority of additional siltation would have been deposited prior to reaching the SAC/SPA. Furthermore, the outfall at New Lake is an existing depositing environment. New Lake itself is a significant water body with consequent dilution effects. In addition to being very short term and temporary, any effects would not have been significant.

The specific qualifying interests and conservation objectives of the SAC and SPA should also be considered in view of potential water quality impacts. In terms of the SAC, the relevant habitats and distribution of qualifying interests are significantly separated from the site and the part of the SAC that it is connected to, notably Geyers Whorl Snail (1313) and Petalwort (1395). The majority of the species and habitats are marine/coastal, which are not relevant to the specific part or habitats of the SAC that the subject site is hydrologically connected to. These qualifying interests include Machairs (21A0), the various dune habitats (2170, 2190, 2130, 2120, 2110), and Grey Seal (1364). Only two of the qualifying interests relate to freshwater habitats/species, notably Slender Naid (*Najas Flexilis*) (1833) and Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or *Isoeto-Nanojuncetea* (3130). In both cases these qualifying interests are only found in the Port Lough which is an exclave of the SAC, located at a significant distance from the subject site with no hydrological connections. Significant effects in this respect are therefore not possible.

In terms of the SPA there are no qualifying interests/conservation objectives that relate to freshwater habitats/species. The following qualifying interests are seabird species that nest on cliffs, coastal areas or are restricted to the area specifically around Horn Head*, and forage/feed on marine species: A009 Fulmar, A017 Cormorant, A019 Shag, A188 Kittiwake*, A199 Guillemot*, A200 Razorbill*. The subject site and the nearest part of the SPA that it is connected to are significantly separated from these habitats and foraging areas, which in any event do not relate to freshwater environments. I do not consider that there would be any likely significant effects.

Other qualifying interests of the SPA include: Peregrine (A103), a bird of prey that nests on high coastal ledges and feeds on other small to medium sized birds and other small mammals: and Chough (A346) which nests along coastal cliffs or sea caves and generally forages within 350 metres of the coast. In both instances, the subject site and relevant area of the SPA is significantly separated from the habitats/foraging grounds of the qualifying interests to ensure that significant effects as a result of the development would not be possible.

The final two qualifying interests of the SPA have a relationship to New Lake, which in addition to Rinclevan and the dunes to the west, support the Greenland White Fronted Goose (A395) and the Barnacle Goose (A045). Greenland White Fronted Geese are grazers, feeding on a wide range of vegetation and key habitats include peat bogs, grasslands, arable stubble, winter cereal fields, coastal grasslands and occasionally salt marsh. Roosting habitat consists mainly of permanent water bodies such as lakes, estuaries and bays. Barnacle Geese are also grazing herbivores associated with open coastal pasture and improved/semi-improved grasslands. This species roost in open habitats typically adjacent to water bodies. Clearly the development would have no effect on the habitat or foraging sites/food availability as the main potential effect from the development would be increased siltation via the open drain/stream. Having regard to the length of the hydrological connection before it enters the SAC/SPA together with the weak volume, strength, and flow of the drain and its heavily vegetated course, I am satisfied that any additional siltation would have been deposited in the immediate environs of the site, prior to reaching the SAC/SPA. Also, I note that the outfall to New Lake is an existing depositing environment. Furthermore, New Lake is a significant water body with consequent dilution effects. Overall, I do not consider it likely that the development would result in significant effects on these qualifying interests/conservation objectives.

I note the concerns raised by the Appellant that demolished building debris was used as a foundation requirement and their opinion that this 'probably' contained toxic substances. It is also submitted that a Natura Impact Statement was required on another application (18/51309) which was further away from the New Lake. The previous building on site was a traditional stone building. No evidence is provided by the Appellant that there were toxic materials, and I find their claims to be unfounded. In my view the rubble from the demolition would constitute inert material and its use on site as foundation material would not have any impact. The other application referred to by the Appellant where an NIS was submitted related to a scheme that was immediately adjacent to and shared a boundary with a European site, as opposed to the subject site which does not have that relationship.

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<p>Site 1: Horn Head to Fanad Head SPA (004194)</p> <p>The following qualifying interests have a restore conservation objective:</p>	<p>Indirect: Short terms temporary effects on surface water/water quality due to construction and site works including increased sedimentation.</p>	<p>See above. The nature of the hydrological connection to the SPA and the distance of both the subject site and the closest parts of the SPA from receiving features of specific relevance to the qualifying interests and</p>

<p>A009 - Fulmar <i>Fulmarus glacialis</i></p> <p>A017 - Cormorant <i>Phalacrocorax carbo</i></p> <p>A019 – Shag <i>Phalacrocorax aristotelis</i></p> <p>A188 - Kittiwake <i>Rissa tridactyla</i></p> <p>A346 - Chough <i>Pyrrhocorax pyrrhocorax</i></p> <p>A395 - Greenland White-fronted Goose <i>Anser albifrons flavirostris</i></p> <p>The following qualifying interests have a maintain conservation objective:</p> <p>A045 - Barnacle Goose <i>Branta leucopsis</i></p> <p>A103 - Peregrine <i>Falco peregrinus</i></p> <p>A199 – Guillemot <i>Uria aalge</i></p> <p>A200 - Razorbill <i>Alca torda</i></p>		<p>conservation objectives of the SPA, make it highly unlikely that the development could generate impacts of a magnitude that could affect the listed conservation interests.</p>
	<p>Likelihood of significant effects from proposed development (alone): No.</p>	
	<p>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No.</p>	
	<p>Possibility of significant effects (alone) in view of the conservation objectives of the site*</p>	
	Impacts	Effects
<p>Site 2: Horn Head and Rinclevan SAC (000147):</p> <p>The following qualifying interests have a maintain conservation objective:</p>	<p>See above for Site 1</p>	<p>As above.</p>

<div>1013 Geyer's Whorl Snail <i>Vertigo geyeri</i></div> <div>1364 Grey Seal <i>Halichoerus grypus</i></div> <div>1395 Petalwort <i>Petalophyllum ralfsii</i></div> <div>1833 Slender Naiad <i>Najas flexilis</i></div> <div>2110 Embryonic shifting dunes</div> <div>2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</div> <div>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*</div> <div>2190 Humid dune slacks</div> <div>3130 Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i></div> <div>The following qualifying interests have a restore conservation objective:</div> <div>2170 Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>)</div> <div>21A0 Machairs (* in Ireland).</div>		
	Likelihood of significant effects from proposed development (alone): No.	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		

I conclude that the retained development (alone or in combination with other plans and projects) would not result in likely significant effects on a European Site. No mitigation measures are required to come to these conclusions. I consider the provision of the silt trap to be a standard design measure and is not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC or SPA.

Screening Determination

Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the development individually or in combination with other plans or projects would not be likely to give rise to significant effects on either the Horn Head to Fanad Head SPA (004194) or the Horn Head and Rinclevan SAC (000147) or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required. This determination is based on:

- The relatively minor scale of the development.
- The distance and weak nature of the hydrological connection.
- The specific nature of the qualifying interests and conservation objectives of the two relevant European sites and the lack of impact mechanisms as a result of the development.
- The lack of ex-situ impacts on wintering birds.

Appendix 4 - WFD IMPACT ASSESSMENT STAGE 1: SCREENING

Step 1: Nature of the Project, the Site and Locality

An Bord Pleanála ref. no.	ABP-320603-24	Townland, address	Murroe, Dunfanaghy, Donegal.
Description of project		Retention of demolition of existing dwelling and replacement with a new dwelling and all associated site works.	
Brief site description, relevant to WFD Screening,		The site is on low lying, generally flat land with poorly draining metamorphic till, located to the north of the N56 which sits at a higher level. A stream/open drain is piped along the western edge of the site, eventually discharging to New Lake, approximately xx metres hydrological distance.	
Proposed surface water details		Standard SuDS, permeable surface, rainwater from roof discharges to stream/drain. Standard measures include use of silt traps.	
Proposed water supply source & available capacity		Uisce Éireann mains supply.	
Proposed wastewater treatment system & available capacity, other issues		New on-site wastewater treatment system, appropriately sized and installed, polishing filter located at appropriate separation from boundary.	

Others?			No.			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody		Dunfanaghy_10 IE_NW_38D5007 70	Moderate	Review	Yes, domestic waste water/waste water discharge.	Surface water drainage.
Lake		New Lake IE_NW_38_31	Good	Not at Risk	No pressures	Surface water drainage via open drain.
Groundwater Waterbody	Underlying site.	Northwest Donegal IE_NW_G_049	Good	Not at Risk	No pressures	Poorly draining till type soils.

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Site clearance, construction and site works.	Dunfanaghy_10 IE_NW_38D5 00770	No new connection, existing hydrological connection on site.	Siltation, pH, chemical spills.	Standard best practice construction measures.	No.	Screened out.
2.	Site clearance, construction and site works.	New Lake IE_NW_38_31	Weak hydrological connection via stream/open drain.	As above.	As above.	No.	Screened out.

3.	Site clearance and construction.	Northwest Donegal IE_NW_G_04 9	Pathway exists but soils are poorly draining.	As above.	As above.	No.	Screened out.
OPERATIONAL PHASE							
1.	Surface water run off/waste water.	Dunfanaghy_10 IE_NW_38D5 00770	Hydrological connection on site, surface water outfall to stream.	Waste water, spills, silt.	Standard measures including new wastewater treatment system on site discharging to ground. Standard SuDS, permeable surfaces, rainwater from roof discharges to	No.	Screened out.

					stream/drain, use of silt trap.		
2.	Surface water run off/waste water.	New Lake IE_NW_38_31	Weak hydrological connection via stream/open drain.	Waste water, spills, silt.	As above.	No.	Screened out.
3.	Surface water run off, waste water.	Northwest Donegal IE_NW_G_04 9	Pathway exists but soils are poorly draining.	Waste water, spills, silt.	As above.	No.	Screened out.
DECOMMISSIONING PHASE							
5.	N/A	N/A	N/A	N/A	N/A	N/A	N/A