



An  
Bord  
Pleanála

## Inspector's Report

### ABP 320735-24

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<b>Development</b>	Construction of a dwelling house with connection to an on-site effluent treatment plant, domestic garage and all associated site development works.
<b>Location</b>	Liafin, Linsfort, Buncrana. Co. Donegal.
<b>Planning Authority</b>	Donegal County Council.
<b>Planning Authority Reg. Ref.</b>	2460993.
<b>Applicant(s)</b>	Shaun & Caroline Donaghey.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Charles Duffy
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	February 8 <sup>th</sup> , 2025.
<b>Inspector</b>	Breda Gannon

## 1.0 Site Location and Description

- 1.1. The site is located within the townland of Liafin, Lindsfort, Bunrana. Co Donegal. It is part of a larger agricultural field and comprises an area of 0.26 ha. The site slopes in a southwest direction and downgradient from the local road. The front boundary is formed by a roadside wall/hedgerow and the northern boundary is formed by a stand of trees. The remaining site boundaries are undefined. On the opposite side of the local road, there are individual dwelling houses and agricultural sheds located at a higher elevation.
- 1.2. The site lies within a rural area c 5km northwest of Bunrana. It is accessed by a narrow local road (L-1641-3) which extends eastwards off the Wild Atlantic Way (L1631-2) touring route. The local road is at a higher elevation than the Wild Atlantic Way and from it there are intermittent and panoramic views towards Lough Swilly, particularly in the vicinity of the site. The predominant land use is agriculture, and the pattern of residential development is dispersed with isolated houses along the road network.

## 2.0 Proposed Development

- 2.1. The development as described in the public notices submitted with the application seeks permission for the construction of a dwelling with connection to an on-site effluent treatment unit, domestic garage and all associated site development works.
- 2.2. The house (231sqm) would have a 'H' type configuration with a ridge height of 6.6m. It would accommodate 4 no. bedrooms. The garage (41 sqm), which would be located to the north side of the dwelling would be single storey with a ridge height of 5.5m. Foul effluent from the house would be discharged to an effluent treatment system located to the rear of the house. The water supply would be from a public mains supply.
- 2.3. The application is supported by a letter of consent to the making of the application from the landowner (Cecelia O' Hagan), together with permission to create and maintain permanent vision lines of 120m from the site entrance and pipe storm water through her lands. It is also supported by a letter of consent from John Doherty to

create and maintain permanent vision lines of 120m across his property. The vision lines are shown on the site layout plan (Dwg No 0424-2327-02C).

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The planning authority decided to grant permission for the development subject to 18 no conditions, which contains the following conditions of note:

**Condition No 2:** Occupancy clause.

**Condition No 3:** The house shall be used as a permanent house only and not uses as a holiday home or short-term rental accommodation.

**Condition No 4:** Visibility splays of 120m to be provided in each direction at the site entrance.

**Condition No 5:** Roadside boundary to be removed across entire site frontage and a new timber fence erected back planted with a hedgerow row of species native to the area along a line at least 5m from the centreline of the public road.

**Condition No 6:** Controls use of garage for purposes ancillary to the use of the dwelling house.

**Condition No 12:** The finished floor level of the house shall not exceed 84.30m above the centreline of the adjoining public road detailed as T.B.M of 86.20m on the site layout plan received by the planning authority on 01/07/24.

**Condition No 15:** Site boundaries to be planted with semi-mature native species.

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

##### 3.2.1. Planning Reports

The **Planning Officer's** report of 07/08/24 notes the location of the proposed development in an 'Area Under Strong Urban Influence. The planning authority is satisfied that the principle of the development is acceptable based on a letter received from an Elected Member of Donegal Co. Council which establishes the bone fides of one of the applicants.

The site is located within an area of High Scenic Amenity. There are a number of houses sporadically located on this side of the road further north and south of the proposed development. There are no concerns regarding the impact of the proposal on the spatial pattern of development in the area.

The house is broadly vernacular in design and displays traditional proportions and fenestration. Storey and a half dwellings are a feature of the wider area. The site is bounded by mature landscaping along the northern boundary. The 6.6m ridge height will read with existing buildings along the road when viewed from long distances including the L-1631-2 to the west. The FFL will be below the level of the adjoining local road and is acceptable in terms of the small amount of cut and fill required. The proposal is of an appropriate mass/scale which can be absorbed into the landscape without adversely impacting on the rural character of the area.

Due to the physical separation between the proposed development and neighbouring properties there will be no overlooking and loss of privacy or impacts on residential amenity.

A traffic survey revealed that the average speed recorded along the road is less than 70km/h. Vision lines of 120m are proposed in each direction from the proposed site entrance which is considered acceptable. The application is supported by a letter from the adjoining landowner confirming consent to the achievement and maintenance of vision lines.

The planning authority is satisfied that the proposed effluent treatment system is suitable to treat and dispose of effluent arising from the development. The point of discharge for surface/storm water is within applicant's control and no consent is required from adjoining landowners.

### 3.2.2. Other Technical Reports

**E.E Roads:** Recommends same conditions as before. Previous application on the site were declared invalid or were withdrawn.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

Four submissions were received which raised broadly similar issues to those raised in the appeal.

## 4.0 Planning History

The Planning Officers report refers to incomplete/withdrawn applications on the site as follows:

- 2460657 – Invalid.
- 2460700 – Withdrawn.
- 2460962 – Invalid.

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the **Donegal County Development Plan 2024-2030**, which came into effect on the 26<sup>th</sup> June, 2024, except those parts affected by the Draft Ministerial Direction. The site is not affected by this Directive.

The site lies outside the development boundary of the Buncrana Area Plan (Chapter 18 of the CDP) and within a rural area that is unzoned.

**Rural Housing (Section 6.3 of the Plan)** identifies four different rural area types with objectives aimed at meeting genuine rural housing need, enhancing the vitality and viability of small settlements, controlling holiday home development in pressure areas, protecting rural areas outside towns for intensive levels of unsustainable urban/suburban residential development, while at the same time facilitating those who have a genuine economic or social need to reside in rural area.

Relevant Objectives include:

**RH-0-1:** To ensure that new residential development in rural areas provides for genuine rural need.

**RH-0-2:** 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-0-4:** 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 site is located in 'Areas Under Strong Urban Influence' (Map 6.3.1 Rural Area Types) and the relevant policy is **Policy RH-P-1**. In order for a proposal to be considered in these areas, the applicant must provide evidence of a demonstrable economic or social need to live in the area. It is also subject to other relevant policies of the Plan including Policy RH-P-9.

**Policy RH-P-9:** Proposals shall be subject to the application of best practice in relation to location, siting and design as set out in Donegal County Council's '*Rural Housing Location, Siting and Design Guide*'.

**Landscape (Section 11.2 of the Plan).** The site is located in an 'Area of High Scenic Amenity (Map 11.1). These areas are described as follows:

*'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 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'.*

**Policy L-P-2:** To protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.

**Policy L-P-7:** To preserve the views and prospects of special amenity value and interest identified on Map 11.1.

**Policy L-P-8:** To protect scenic views between public roads and the sea, lakes and rivers. Such development shall be considered on the basis of the following criteria:

- a) Whether the integrity of the view has been affected to-date by development.
- b) Whether the development would intrude significantly in the view; and
- c) Whether the development would materially alter the view.

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

The **Rural Housing - Location, Siting and Design Guide 2024-2030** is published as a separate document.

## 5.2. National Planning Framework

**National Policy Objective 15:** Seeks to support the sustainable development of rural areas and to manage the growth of areas under urban influence to avoid over-development.

**Policy Objective 19:** Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence within the commuter catchment of cities and larger towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of small towns and rural settlements.

## 5.3. Natural Heritage Designations

The site is not located within any European site. Designated sites close to the site include the following:

- Lough Swilly SAC (002287) at a distance of 2.8km to the southwest

- Lough Swilly SPA (004075) at a distance of c 2.8km to the southwest
- North Inishowen Coast (002012) SAC at a distance of c 6km to the northwest.

## 6.0 EIA Screening

The proposed development is of a Class under Schedule 5 and below threshold. Having regard to the nature, scale and location of the proposed development and the criteria set out in Schedule 7 of the Regulations, I have conducted a preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The following summarises the grounds of appeal:

- The appeal site is located in a rural area 'Under Strong Urban Influence'. A rural housing need has not been demonstrated in accordance with the provisions of the development plan. The applicants have not lived in this townland and disputes that applicants' parents lived in the locality for a period exceeding 7 years.
- The proposed house, which is not of vernacular design, will contravene the design standards for rural housing set out in Policy RH-P- 9 of the Plan. It will expand a suburban pattern of development, create ribbon development and result in haphazard development on the seaward side of the road. It will scar the landscape and detract from the visual amenities of the area which is designated of High Scenic Amenity. The site is also prominently visible from the Wild Atlantic Way.
- The surrounding area is characterised by many single storey dwellings which form a cohesive pattern and blend in with the natural landscape. The size, scale and massing of the house and garage is excessive and will give the site a congested higher density appearance. The seaward side of the road has no

development and to permit the proposal would result in an undesirable precedent.

- There are numerous examples of refusal of planning permission by An Bord Pleanála in rural areas and the reasons for refusal apply to this proposal. Donegal Co. Council recently refused planning permission for a development on the same road and c 400m from the appeal site (23/52029). The reasons for refusal apply to the current proposal.
- The proposal will result in the loss of high value agricultural land.
- The proposal is close to a number of tourist attractions and will negatively impact on the scenic views along the local road and threatens not only the immediate area but also the broader reputation of Donegal as a premier travel destination.
- There are several critical omissions in the site assessment that warrant the Board's attention. The assessment is incomplete as it does not show the existing operational effluent treatment system adjoining the site. The EPA's minimum separation distance to a nearby stream located along the northern site boundary have not been complied with.
- Discrepancy in the FFL section provided in the application drawings.
- The site is below road level and exiting onto the adjoining road presents a significant traffic hazard. The stopping distance specified for this road is 160m which is not attainable at this location.
- The road is narrow and heavily trafficked. It is insufficient for two cars to pass safely. The vehicles using the road must use the inset area directly adjacent to appellant's property to yield and facilitate the passage oncoming traffic. In addition to regular traffic and recreational users, there are several large construction companies based in the local area which regularly transport heavy plant and machinery multiple times each day, further intensifying the use, traffic congestion and safety risks along the road.
- The adjoining field is owned by appellant's brother who has not given his consent for sight lines, if a repositioned house entrance were proposed.

- The traffic survey completed as part of the application does not accurately reflect the volumes of traffic using the road. It was restricted to one hour between 9-10 am, completed during the winter months, outside of normal work and school journey hours, increased road usage during the summer months and farming activity during spring and summer. A camera at appellants property confirms a daily average of 37-43 vehicles per hour on the road (images attached).

The appeal is supported by photographs and camera recordings detailing traffic movements along the local road at the front of the site.

## 7.2. Applicant's Response

- The applicants do not agree that the proposed development would give the site a congested higher density appearance. The set back from the road and separation distances between the house and the garage are reasonable and afford sufficient space on the site.
- The design of the house has been heavily influenced by the 'Rural Housing Location Siting and Design Guidelines'. Simplicity underscores the entire design approach, and the overall mass was former into smaller sections, thereby reducing the apparent scale of the development. A traditional ratio of solid to void is proposed and the fenestration is given a vertical emphasis. The appellant's assertion that the proposed dwelling gives the appearance of a two-storey dwelling is unfounded.
- The Liafin area, while accommodating many single-storey dwellings, also supports a wide range of two-storey and dormer dwellings, including that belonging to the appellant. The proposed development will not disrupt the visual harmony of the neighbourhood and impact on the overall aesthetic and character of the locality
- The criteria for the bone fides of the applicant to build a home in a rural area designated as 'Areas Under Strong Urban Influence' is contained in Policy RH-P-1. The appellant has failed to apply the criteria and in particular the definitions set out in this policy in his assessment of the applicant's housing need. The applicant (Caroline Donaghey) complies with the social criteria in the definitions, which form part of Policy RH-P-1. Evidence of applicant's

intrinsic connections to the rural area has been presented by Cllr Paul Canning in a letter to An Bord Pleanala (Appendix C).

- While Policy RH-P-5 in the Donegal CDP 2018-2024 included a mandatory familial connection to the area as part of the housing need criteria in areas under strong urban influence, this was not acceptable to the OPR when a similar policy was included in the Draft Donegal CPD. The OPR recommended the omission of consideration of family ties to the rural area and to include consideration of demonstrable economic or social need to live in the area.
- The applicant proposes to raise the level of their driveway to road level for a distance of 10m back from the entrance which will address any potential traffic safety problem arising from the respective levels of the driveway and the adjoining road. Despite the level of traffic using the adjoining local road, there is adequate width on the road for traffic to pass oncoming traffic. Stopping sight distance of 160m is available along this straight section of the road. There is no requirement to amend the site entrance and accordingly the consent of appellant's brother does not arise.
- The applicant's traffic survey was carried out in accordance with the guidance set out in TA22/81 of the 'Design Manual for Roads and Bridges' and considered that despite the survey being carried out between 09.00-10.00, the traffic levels were generated from local houses dropping children to the local primary school and people travelling to work. The survey was professionally carried out and accurately reflected the traffic levels during the survey date and hours.
- The applicants disagree with appellant's contention that the proposed dwelling contravenes Policy RH-P-9 of the Plan. The proposed dwelling reflects the scatter of rural dwellings in small groups, widespread in the area and will integrate fully into the landscape. There are no other dwellings on this side of the road within 100m of the proposed dwelling which refutes the appellant's claim that the development will create a suburban pattern of development and expand same. The separation distance from other dwellings undermines the claim that the development constitutes ribbon development.

- The applicant's site is not located between a coastal road and the sea (Plate 1) and is over 1km from the Wild Atlantic Way. The view is affected somewhat by existing development and the proposed development would not significantly intrude or materially alter the view. It is considered that applicants proposal complies fully with Policy L-P-8.
- The only designated view in the vicinity is shown on Map 2. The view is affected to a degree by existing development and the proposed development would not significantly intrude or materially alter the view. It is not considered that the proposal contravenes Policy L-P-7 which seeks to preserve views and prospects.
- The applicants do not accept that the development will be prominent as viewed from the Wild Atlantic Way tourism route which follows local road L-1631-2 to the west of the site. Views towards the site from this route take in a backdrop of higher ground (Aghaweel Hill) behind the site which will absorb the development into the landscape. The site also benefits from its location adjacent to a mature stand of trees along the northwestern site boundary. This is evident from the accurate location of the proposed development as shown on Plate 2. The proposed development is not visually obtrusive from any part of the Wild Atlantic Way. The appellant has inaccurately shown the location of the proposed dwelling in Figure 3 of the appeal document.
- While acknowledging that the site is located within an Area of High Scenic Amenity, this designation does not preclude development. On the basis of the above assessment, it is not accepted as contended by the appellant that the proposal contravenes Policy L-P-2.
- The omission of the appellant's sewerage treatment system and the separation distance to the piped drain have been addressed in an amended Site Assessment Report and layout plan (Appendix D). This demonstrates that the site has the capacity to safely accommodate the WWTU and the ground conditions are sufficient to polish treated effluent. There is, therefore, no basis for appellant's grounds of appeal on the basis of public health nuisance.
- The layout plan confirms that the FFL will be 84.3m.

- It is not accepted that that the proposed development will adversely impact on tourist attractions in the area. Tourists to the area will follow the signage for the Wild Atlantic Way to the west of the site, which serves the tourist attractions identified by the appellant.
- The proposal will result in the loss of 0.2 ha of productive agricultural land. The applicants consider that their minor encroachment into the extent of agricultural land is inconsequential.
- The cases decided by the Board and cited by the appellant as precedents in the current appeal are located at distances of between 46km and 135km from the appeal site. Apart from the separation distances, all the identified precedents had planning issues different from or in addition to those presented by the appellant.
- The precedent case (23/52029) identified by the appellant which is located 400m from the appeal site had planning issues which are not associated with the appeal site.
- The Board is requested to uphold the decision of the planning authority and grant permission for the development subject to conditions.

### 7.3. Planning Authority Response

The planning authority considers that the issues raised in the appeal have been dealt with in the Executive Planner's report dated August 7<sup>th</sup>, 2024.

It is acknowledged that there was a typing error in paragraph 2.2 of the Planning Officer's report relating to finished floor levels. Matters relating to siting and levels were properly assessed under paragraph 9.8 of the report. For the avoidance of any doubt, the Board should rely on paragraph 9.8 of the Planning Officer's report.

### 7.4. Observations

None

### 7.5. Further Responses

#### **Third Party Response to First Party Response to the Grounds of Appeal**

The response seeks to reaffirm the points raised in the previous response and provide additional clarification and insight into the applicants' response to the appeal.

- Reiterates the points raised regarding housing need, impacts on the character of the landscape, scenic views, the Wild Atlantic Way and non-compliance the Rural Housing Location, Siting and Design Guide 2024-2030 and Policy RH-P-9 of the development plan.
- The proposal will create and exacerbate ribbon development creating 5 houses if permitted along one side of the road over a distance of 250m.
- The proposal would obstruct views from appellants house (Figure 3) and diminish the areas scenic value and views towards the coastline.
- The accurate location of the appeal site as provided by the applicant does not materially change the central issue. The site remains highly visible and prominent from the Wild Atlantic Way along the L-1631-2. It does not benefit from any natural screening and would still be an incongruous and intrusive feature on this sensitive landscape. It would be highly exposed to views from the Wild Atlantic Way along the local road. It would result in an adverse impact on the character of the landscape and its scenic integrity which has not been addressed or mitigated by the applicants.
- Local people were obliged to build their houses on the opposite side of the road to protect coastal landscapes and sea views.
- The site will massively reduce profitability of the farmer currently renting and using the land.
- The submission of amended site drawings and a new site assessment test is a significant procedural issue and denies the public their right to fully review and consider the newly amended information.
- Provides additional information on traffic information collected from a camera located on appellants property. The data shows that the traffic information submitted by the applicant is a clear misrepresentation of the actual traffic using the local road. The camera records passing traffic and assimilates those recordings producing daily averages. The daily recorded average is over 40 vehicles per hour, over twice that recorded in the traffic survey.

- On October 23<sup>rd</sup>, the camera recorded a total of 53 vehicles using the road between 8.00am to 09.00am and an additional 39 vehicles between 9.00 am and 10.00 am (Appendix 1).

## 8.0 Assessment

### 8.1. Introduction

8.1.1. Having examined all 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 policies and guidance, I consider the substantive issues to be considered in this appeal are as follows:

- Housing need.
- Impacts on the visual amenities of the area.
- Traffic safety.
- Effluent treatment.
- Other matters.
- Appropriate Assessment.

### 8.2. Housing Need

8.2.1. The site is located in an 'Area Under Strong Urban Influence'. The rural housing policies for these areas are more restrictive than for other rural areas in the county, and the aim is to ensure that these areas are protected from intensive levels of unsustainable urban/suburban residential development. Under the provisions of Policy RH-P-1, prospective applicants must demonstrate that they have a demonstrable economic or social need to live in these areas, including, for example that they, or their parents/grandparents, have resided at sometime within the area under strong influence in the vicinity of the application site for a period of at least 7 years. Definitions of what constitutes social and economic need are provided in the plan.

8.2.2. The applicants in this case are the prospective purchasers of the site and the proposed house would be their primary residence. There is no information provided

on where the applicants currently live, their address for the purposes of the application is Fallask, Buncrana. The applicants are stated to have family connections with both Fallask townland and with Umrican, both of which located to the east adjacent to the R238 and between c 7-10km from the appeal site. With the exception of a letter from a local councillor setting out the links of one of the applicant's with Fallask, no other documentary evidence has been submitted to establish applicants social or economic need to reside in the area. The planning authority accepted the bone fides of the applicant.

- 8.2.3. Under the provisions of the development plan 'economic need' includes people working full/part time in rural areas and includes persons engaged in farming, forestry or related occupations. It also includes persons whose work is intrinsically linked to rural areas such as teachers in rural schools.
- 8.2.4. 'Social need' refers to people who are an intrinsic part of the rural community and includes farmers and their sons, daughters and persons taking over the ownership and running of farms. It also includes people who have lived most of their lives in rural areas and returning emigrants who have lived substantial parts of their lives in rural area.
- 8.2.5. In terms of 'economic need' neither of the applicants is working full/part time in a rural area or engaged in farming, forestry or related applications. While one of the applicants is noted to be a primary school teacher, no information is provided on her current place of employment. There is reference in the application documentation to previous employment in St Egneys N.S and the First Party response to the grounds of appeal states that the applicant is listed as a teacher with Scoil Iosagain for the current academic year. Both schools are located centrally within the town of Buncrana and well outside the local area in which permission is being sought for the dwelling.
- 8.2.6. No evidence has been produced to indicate that the applicants' work is intrinsically linked to the rural area. Their housing need is not confined to the area of the subject application and could be accommodated within the urban area of Buncrana. I would, therefore, accept appellants' argument that the applicant has not provided evidence of a demonstrable 'economic need' to reside in the area under the provisions of the development plan.

- 8.2.7. The applicants do not work in and have no documented attachment to farming or agricultural related activities in this rural area. Their 'social need' is predicated on the residency of one of the applicants in a rural area for a period in excess of 7 years. While I accept on the basis of the information submitted, that one of the applicants has connections with rural areas outside of the town, which is also within the broader area designated 'Under Strong Urban Influence, I am also mindful of the provisions of Policy RH-P-1. It expressly states that applicants for new one-off rural housing in Areas Under Strong Urban Influence must have resided for a period of at least 7 years in the vicinity of the application site.
- 8.2.8. No evidence has been provided that the applicants have lived any parts of their lives in this area in the vicinity of the site. Their rural connections are in an area considerably removed from the site. I would, therefore, concur with the appellant that that the applicants have not provided evidence of a demonstrable 'social need' to reside in this area under the provisions of the development plan.
- 8.2.9. Having regard to the rural housing policies of the development plan and National Objective 19 of the NPF, I accept the argument made in the appeal that the applicants do not come within the housing need criteria for a house at this rural location, I consider that a refusal of planning permission is therefore merited on these grounds.

### **8.3. Impacts on the visual amenities of the area.**

- 8.3.1. The issues raised relate to impacts on the landscape associated with the overall size, scale and mass of the development, impacts on scenic and designated views and impacts on the Wild Atlantic Way. I would point out to the Board that the appellant's house is located on higher ground on the opposite side of the road to the northeast.
- 8.3.2. I share the concerns of the Third Party regarding the overall impact of the development on the landscape in this location. The site is on the seaward side of the road and is more sensitive to development. It is open and exposed with limited screening, restricted to a number of Sitka Spruce trees on the northern site boundary. The site is therefore particularly vulnerable to development. I note that while there is significant diversity in the design and scale of houses in the wider area,

with limited exceptions, the majority of dwellings on the seaward side of the road in the vicinity of the site are largely single-storey in scale.

8.3.3. The appeal site is restricted in area and the house which consists of three blocks in parallel arrangement, together with the garage occupies a significant footprint. Notwithstanding, the proposal finished floor level (84.3m), relative to adjoining road level (86.2m), I consider that the overall scale and mass of the house, which includes a bedroom wing (6.69m), would result in a very intrusive development which notwithstanding the screen planting proposed, would not be capable of effective assimilation into its surroundings. The proposal will also rely on the removal of a substantial section of roadside hedgerow to achieve required sightlines.

8.3.4. Furthermore, I am not persuaded by the planning authority or the applicant's argument that the design of the house supports contemporary design principles and traditional proportions, which would mitigate its overall impact on the receiving landscape. I would conclude, therefore, that the proposed development would dominate rather than blend into the landscape in this location, which would detract from the character and quality of the landscape, designated high scenic amenity.

Policy L-P-8 seeks to protect scenic views between public roads and the sea, lakes and rivers. The site is located on the seaward side of the road and there are panoramic views westwards over Lough Swilly in the vicinity of the site. Most of the development has taken place on the opposite side of the road, with some clusters of houses on the seaward side further to the north and south of the site. Development has also occurred on lower ground within this viewshed, but it does not detract significantly on the quality or attractiveness of the view. However, having regard to the location, scale and mass of the proposed development, I consider that it would intrude significantly and materially alter the view and would, therefore be contrary to Policy L-P-8 of the development plan.

There is one designated view to the north of the site close to Ballyannan. Views are protected in a west/southwest direction towards Lough Swilly. The view is already impacted to a degree by existing development. Due to distance and undulating topography between the viewpoint and the appeal site, I do not consider that any significant impacts on the protected view are likely to occur. The proposed

development would not therefore, be contrary to Policy L-P-7 of the development plan.

The Wild Atlantic Way runs along the local road (L-1631-2) to the west and roughly parallel with the local road serving the site. There would be intermittent and localised views towards the site from the route. As noted by the applicant, the proposed development would be set against the backdrop of higher ground which is already impacted by existing houses and farm structures. I accept that impacts on views from the Wild Atlantic Way would not, therefore, be significant.

I would conclude that the proposed development due to its exposed location and its overall design, scale and mass does not integrate with or reflect the character and amenity of the landscape of the area. The proposed development would intrude significantly into views of Lough Swilly from the public road and would therefore be contrary to Policy L-P-7 of the development plan. I consider that the proposal would, therefore, result in significant adverse impacts on the visual amenities of the area and create a precedent for similar type development in the area. I consider that refusal of permission would be merited on these grounds.

#### **8.4. Traffic Safety**

- 8.4.1. I accept that the appellant has made a reasonable argument regarding the time and duration of the traffic survey conducted in support of the application. I would also accept that the survey, which was conducted outside normal commuting/school traffic hours is likely to have underestimated the volume of traffic using the local road. From my observations on site on the day of inspection, I would accept that the local road does experience considerable traffic. I also accept that the local road is narrow and in locations is insufficient for two cars to pass.
- 8.4.2. It is proposed to access the local road towards the southern end of the site frontage. To address concerns over road safety issues raised in the appeal, the applicants propose to raise the level of the driveway for a distance of 10m back from the entrance. While permission has been granted by the landowner to create and maintain vision lines, this land is not in the ownership or control of the applicant which could impact on applicants' ability to retain and maintain adequate sightlines, with impacts on traffic safety.

## **8.5. Effluent Treatment**

- 8.5.1. The issues raised in the appeal regarding the failure to identify appellant's septic tank/percolation area on the adjacent site and compliance with the distance requirements for an open drain in accordance with the EPA's Code of Practice have been addressed. A revised layout plan (Appendix D) has been submitted which shows the relocated position of the effluent treatment to secure the 10m separation distance to the drain, which will be piped.
- 8.5.2. A new site suitability assessment was also submitted to assess ground conditions in the revised location. The trial hole was excavated to a depth of 1.8m and no rock or ground water was encountered. The percolation tests results indicated soils with reasonable percolating properties. It is proposed to provide a tertiary treatment system on the site prior to discharge to ground.
- 8.5.3. The revised position of the treatment system provides a separation distance of c 30m to the neighbouring septic tank/percolation area. While the system is close to the rear boundary, the minimum separation distance of 3m appears to be achievable. On the basis of the information submitted I would accept that the site is suitable for the treatment and disposal of foul effluent arising from the development and there is no basis for refusing planning permission for the development on the grounds of public health.
- 8.5.4. The applicant's response to the grounds of appeal was circulated to the appellant and accordingly he was not deprived of the opportunity to comment on the revisions made to the site layout plan.

## **8.6. Other matters**

- 8.6.1. I consider the issues raised regarding impacts on tourism are unfounded. The main tourist route to the various attractions in the area including Dunree Head, Dunree Fort and Dunree Bay follows the Wild Atlantic Way to the west. Views eastwards from the route towards the site are already impacted by existing buildings and as noted the development, if permitted, would be set against the backdrop of higher grounds and other structures in more elevated positions.

- 8.6.2. I also consider that the issues raised regarding the loss of agricultural land are unfounded having regard to the limited area of the site (0.2 ha) and the quantity of land available for agricultural purposes in the locality.
- 8.6.3. Regarding the precedents cited by the appellant, I consider that each application must be considered on its individual merits and I do not accept that parallels cannot be drawn between these proposals and the current application.

## 9.0 Appropriate Assessment

### Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposal to construct house, garage and effluent treatment system in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located c 2.8km to the northeast of Lough Swilly SAC and Lough Swilly SPA

The proposed development comprises the construction of a house, garage and effluent treatment system on the site.

No nature conservation issues were raised in the appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows.

- the scale and nature of the development
- the distance from the nearest European sites and lack of connections

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 Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## 10.0 Recommendation

- 10.1. On the basis of the above assessment, I recommend that permission be refused for the proposed development for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

1. The site of the proposed development is located within an 'Area under Strong Urban Influence, as set out in the Donegal County Development Plan 2024-2030. Within these areas, it is the policy of the Council as stated in Policy RH-P-1 to consider proposals for new one-off rural housing based on the core considerations of demonstrable 'economic or social' need as defined in the plan. The applicant is seeking a house in this rural area on the basis of 'social need'.

Based on the information submitted in support of the application and the appeal, the Board is not satisfied that the applicant has adequately demonstrated a 'social need' to reside in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria set out in the plan. The proposed development would be contrary to Policy RH-P-1 of the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development is located within in an 'Area of High Scenic Amenity' as set out in the Donegal County Development Plan 2024-2030. Within these areas it is the policy of the Council as stated in Policy L-P-2 to consider only development that integrates with and reflects the character and amenity of the landscape. The Board considers that the proposed development, due to its scale, mass, height and extended footprint on this prominent and exposed site necessitating an extended roadway to provide access and the removal of a significant length of roadside vegetation to achieve adequate sightlines, would constitute an obtrusive feature in this exposed location and seriously damage the visual amenities of the area. It is considered that the proposed development would seriously impact on the character and amenity of the landscape in this location and would be contrary to Policy L-P-2 of the Donegal County Development Plan 2024-2030. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The site is located in an open view between the road and the sea over which there are panoramic views towards Lough Swilly. Policy L-P-8 of the Donegal County Development Plan seeks to protect such views from inappropriate development. Having regard to the elevated and exposed nature of the site and the location, scale and mass of the proposed development, it is considered that the proposed development would intrude significantly and materially alter the view from the local road. The proposed development would, therefore, be contrary to the Policy L-P-8 of the plan and contrary to the proper planning and sustainable development of the area.
4. On the basis of the information lodged with the application and the response to appeals, the Board is not satisfied that the applicant has sufficient land in order to achieve and retain in the future suitable visibility splays in a southern direction from the proposed access point on the public road. The proposed development would, therefore, endanger public safety by reason of traffic hazard and 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.

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Breda Gannon  
Planning Inspector

26<sup>th</sup>, February 2025

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP 320735-24		
<b>Proposed Development Summary</b>	Construction of a dwelling house with connection to an on-site effluent treatment plant, domestic garage and all associated site development works.		
<b>Development Address</b>	Liafin, Linsfort, Buncrana. Co. Donegal.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	<b>Yes</b>	✓	
	<b>No</b>		
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓	Class 10(b)(i): Infrastructural Projects	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	✓	Sub -threshold development	Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	<b>YES</b>	Proposal is for a single house. The relevant threshold is the construction of more than 500 dwelling units	Preliminary examination required (Form 2)
<b>5. Has Schedule 7A information been submitted?</b>			

<b>No</b>	✓	<b>Screening determination remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

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