



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-320761-24

<b>Development</b>	Erection of a dwelling house with septic tank and domestic garage including all other associated site development works
<b>Location</b>	Magheraroarty, Creeslough, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2460282
<b>Applicant(s)</b>	Shaun Brennan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Jim and Margaret Carey Sharon and Gregor McClean
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> March 2025
<b>Inspector</b>	Emma Nevin

## **1.0 Site Location and Description**

- 1.1. The subject site comprises a stated area of 0.65ha, in the townland of Magheraroarty, Creeslough. The greenfield site comprises gently undulating lands, currently used for agriculture and is located to the rear of an existing dwelling. The site is served by a private access off the local county road (L-5212-1). The immediately adjoining area is characterised by a cluster of existing dwellings and buildings. The site is located within an area of High Scenic Amenity and falls within a Stronger Rural Area.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises:
- Erection of a dwelling house with septic tank and domestic garage including all other associated site development works.
  - The proposed dwelling comprises a floor area of 265sqm, with a proposed ridge height of 9.63 metres.
  - The proposed garage has a floor area of 45 sq. m., with a ridge height of 5.15 metres.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority granted permission on the 10<sup>th</sup> of November 2024, following further information request, subject to 13 no. conditions.
- 3.1.2. The conditions are standard to the nature of the proposal, but the following are of note:
- Condition 2: “(i) The premises the subject of this permission shall (when constructed) be used for the purposes of a dwelling and subject to paragraph (iii) below the following restrictions shall apply during the period of seven years commencing on the first such use – (a) The dwelling shall be used as the principal place of residence of the applicant or with the written consent of the Planning Authority by any person(s) with a need for a dwellinghouse, and (b) This permission will inure only for the

benefit of the land and such persons entitled to use the dwelling as per paragraph (a) above and (c) The above restrictions will be embodied in an agreement under Section 47 of the Planning and Development Act, 2000 (as amended) to be entered into on the first application being made for written consent per paragraph (a) above and where a consent is granted the entry into the agreement will be a condition precedent of such consent.

(ii) Within two months of the first use/occupation of the dwelling, the applicant shall submit to the Planning Authority written confirmation of the person(s) using/occupying the dwelling in accordance with paragraph (a) and the date of commencement of such use/occupation.

(iii) The above restrictions shall cease to apply (earlier than the seven year period stipulated) on a sale of the dwelling by a mortgagee in possession but excluding use of the dwellinghouse as a holiday home.

The proposed play park shall only be used between the hours of 09.00 and 21.00 hours during the months of April to September (inclusive) and 09.00 and 18.00 hours during the months of October to March (inclusive)".

Condition 4: "Prior to commencement of development, permanent visibility splays of 70 metres shall be provided in each direction to the nearside road edge at a point 2.4 metres back from road edge at location of vehicular entrance. Visibility in the vertical plane shall be measured from a driver's eye- height of 1.05 metres and 2 metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision splays to be calculated and provided as per Figure 16.2 of Chapter 16 of the County Donegal Development Plan 2024-2030".

Condition 12: "(a) A wastewater treatment system (Independently certified by IAB, BSI or ISO EN) suitable for a population equivalent of 6 No persons shall be installed, operated and maintained in strict accordance with the supplier's instructions and the 2021 Environmental Protection Agency Code of Practice, "Wastewater Treatment and Disposal Systems Serving Single Houses." The dimensions of the soil polishing filter area shall be in accordance with Table 10.1 of the EPA Code of Practice for Domestic Effluent Treatment Systems (Population Equivalent  $\leq 10$ ) 2021. (b) No part of the percolation area/polishing filter shall be within:

- 10m of any dwelling
- 3m of the boundary of the adjoining site
- 4m of the nearest road boundary
- 10m of the nearest stream or ditch
- 3m of the nearest trees
- 5m of any surface water soakaway which if located on the site, shall be located down-gradient of the percolation area.

(c) Documentary evidence detailing a five-year maintenance contract between the applicant/owners and the suppliers of the wastewater treatment system shall be forwarded to the Planning Authority upon its installation.

(d) All parts of this condition shall be complied with in full prior to first occupation of the house hereby permitted.

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

3.2.1. Planning Reports dated 22<sup>nd</sup> April 2024, 9<sup>th</sup> July 2024 and 29<sup>th</sup> August 2024 have been provided.

3.2.2. This planning application was assessed both the Donegal County Development Plan, 2018 – 2024, and the Donegal County Development Plan 2024 - 2030.

3.2.3. The original planners report considered it necessary to seek further information on the following items:

- To erect 2 no. laths to a maximum ridge height of 8m at each gable end of the proposed dwelling and attach a large red flag to the top of each lath and inform the Planning Authority when this has been carried out, so that a site inspection can be carried out. If the laths are subsequently considered to be acceptable, applicant to submit revised drawings including elevations drawn to an appropriate scale which indicate a dwelling with a maximum ridge height of 8metres.
- To submit a revised site layout plan with the reference to the proposed garage as a 'proposed dwelling' amended to read 'proposed garage'.

- To undertake an assessment of the 85th percentile speed of vehicles using the public road in the vicinity of the site and submit evidence (traffic survey) that the proposed reduced vision lines are appropriate on the basis of the identified 85th percentile speeds. It will be necessary to determine the 85th percentile speed of vehicles using the local road in order to enable the Planning Authority to determine whether reduced vision line standards can be applied in this case.
- To provide written consent from all affected landowners where works on third party lands are required to achieve and permanently maintain the proposed visibility splays.
- To submit details on the nature, location, extent, age and current usage of the existing wastewater treatment and disposal arrangements that currently service all adjacent properties. Applicant advised to contact the Environmental Health Officer directly to discuss concerns relating to the provision of a wastewater treatment system on the site and the requested details.
- To submit a revised site layout to appropriate scale, which details proposals for the collection, management and disposal of storm/surface water from the subject site, including a final discharge point. If the point of discharge is outside the applicant's control, a letter of consent from adjoining landowner will be required. All revised plans must be to the satisfaction of the EE/Roads for the area.

3.2.4. Clarification of further information was sought as follows:

- To submit revised layout drawing (Scale 1:500) providing for the correct dimensions for the proposed polishing filter area using table 10.1 of the EPA Code of Practice for Domestic Effluent Treatment Systems (Population Equivalent  $\leq 10$ ) 2021 to size the area. Drawings should also clearly indicate that all separation distances set out in table 6.2 table for EPA code of practice for Domestic Effluent Treatment Systems (Population Equivalent  $\leq 10$ ) 2021 can be met.

3.2.5. The planners report considered that the "Having regard to the location of the subject site within a 'Structurally Weak Rural Area', outside of and removed from any sensitive designations, to the nature and scale of the development and the policies

of the current development plan, it is considered that subject to compliance with the conditions below, the proposed development would not injure the amenities of the area, would not be prejudicial to public health and would not endanger public safety by reason of a traffic hazard. Accordingly, it is considered that the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area” and granted permission subject to conditions as noted in Section 3.1.1 above.

#### 3.2.6. Other Technical Reports

- Fire Officer: Report received noting - Fire safety certificate required for the proposed Communal Building No objections to this application subject to adequate access and water being provided for use by the Fire & Rescue Service.
- District Engineer: Report received requesting Further information with regard to lighting.

#### 3.3. Prescribed Bodies

- No referrals indicated.

#### 3.4. Third Party Observations

3.4.1. Three (3) third party submissions were received; the main issues raised within the observations can be summarised as follows:

- Sightlines are within the boundary of their property and no written permission has been sought or granted.
- Site layout map does not include existing mature trees, shrubs and railings (outside the site) which obstruct the proposed sightlines.
- Sightlines turning rightProposed entrance is at the top of a hill on a bend, which then falls sharply restricting sightlines.
- Question need for development as applicant has permanent family dwelling in adjoining townland. Applicant owns a larger farm holding and there are other alternative locations that could be considered with less impact on neighbours.

- Location of dwelling is unsuitable and constitutes backland development, and proposed dwelling is out of scale with existing dwellings in the area.
- Impact on residential amenity.
- Dwelling will cause overlooking and block sunlight due to its elevated position, mass and height. Proposed planting would take many years to establish, if carried out, and would not protect immediate privacy of their home.
- Driveway passes close to observers' home and those using the driveway will be able to look into their bedroom and living space windows- associated noise and light.
- Concerns relating to occupancy, potential rental or short-term holiday let. Affecting security and privacy, increased noise.
- Existing entrance has never been granted planning permission to serve as residential access to the existing derelict dwellings. Potential intensification of an existing access.
- Concerns regarding significant number of large dumper trucks passing through narrow entrance and causing damage to existing walls, railings and mature trees. Who would pay for damage?
- Concerns regarding heavy machinery operating near the building identified as 'old cottage' on the submitted plan, which has an asbestos roof. Heavy machinery could cause ground disturbance resulting in movement of the building and release toxic asbestos to the air.
- Site layout plan does not show mature trees and a gazebo on neighbour's property and does show sheds which have been demolished.
- Concerns relating to water supply and pressure which already affects existing dwellings.
- Concerns relating to noise during construction work.
- Land is prone to slippage, concerns that the use of heavy machinery could affect their house and garden.

- Location of wastewater treatment- area is prone to flooding and drains to a stream which flows through their garden. Despite attempts to drain the area, in prolonged periods of wet weather a pond forms where the wastewater and percolation is shown. Photographs submitted to support this.

## 4.0 Planning History

4.1. None pertaining to the appeal site.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Donegal County Development Plan 2024-2030 is the relevant development plan, which came into effect on 26<sup>th</sup> June 2024. I note that the application was assessed under both the 2018-2024 Plan, and the 2024 – 2030 Plan. As such, I will reference the relevant Donegal County Development Plan 2024-2030 in my assessment.
- 5.1.2. The subject site is located within an area designated as a ‘Weaker Rural Area’ and as such, Policy RH-P-3 of the Development Plan 2024 - 2030 is applicable. This Policy states that: To consider proposals for new one-off housing within ‘Structurally Weak Rural Areas’ from any prospective applicants for a dwelling house, subject to siting and design considerations and compliance with all other relevant policies of this Plan including Policy RH-P-9. New holiday homes will not be permitted in these areas.
- 5.1.3. Policy RH-P-9 states “a. Proposals for individual dwellings (including refurbishment, replacement and/or extension projects) shall be sited and designed in a manner that is sensitive to the integrity and character of rural areas as identified in Map 11.1: ‘Scenic Amenity’ of this Plan, and that enables the development to be assimilated into the receiving landscape. Proposals shall be subject to the application of best practice in relation to the siting, location and design of rural housing as set out in Donegal County Council’s ‘Rural Housing Location, Siting and Design Guide’. In applying these principles, the Council will be guided by the following considerations:-



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

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

- i. the need to avoid any adverse impact on Natura 2000 sites or other designated habitats of conservation importance, prospects or views including views covered by Policy L-P-8.
- ii. the need to avoid any negative impacts on protected areas defined by the River Basin District plan in place at the time.
- iii. the site access/egress being configured in a manner that does not constitute a hazard to road users or significantly scar the landscape.
- iv. the safe and efficient disposal of effluent and surface waters in a manner that does not pose a risk to public health and accords with Environmental Protection Agency codes of practice.

v. Compliance with the flood risk management policies of this Plan; c. In the event of a grant of permission the Council will attach an Occupancy condition which may require the completion of a legal agreement under S47 of the Planning and Development Act 2000 (as amended)".

5.1.4. The following Development Plan policies/sections are considered relevant to the appeal:

- Roadside Boundaries in Rural Areas - Table 16.3: Roadside Boundaries in Rural Areas.
- 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.
- BIO-P-1 To require all developments to comply with the requirements of the EU Habitats Directive and EU Bird Directive, including ensuring that development proposals: a. Do not adversely affect the integrity of any European/Natura 2000 site (i.e. Special Areas of Conservation and Special Protection Areas) including effects on ex-situ but functionally linked habitats, and species (e.g. Pearl Mussel) save where a plan must be carried out for imperative reasons of overriding public interest (IROPI). b. Provide for the protection of animal and plant species listed in Annex IV of the EU Habitats Directive and the Flora Protection Order. c. Protect and enhance features of the landscape (such as rivers, riverbanks, field boundaries, ponds and small woods) which are of major importance for wild fauna and flora and the ecological coherence of the Natura 2000 network.
- BIO-P-4 Ensure that any development proposals do not lead to the introduction or spread of invasive species. Where invasive species are present, development proposals will be required to submit an appropriate control and management programme for the particular invasive species as part of the planning process and to comply with the provisions of the European Communities Birds and Habitats Regulations 2011 (S.I. 477/2011).

5.1.5. Other Relevant Guidance:

- Rural Housing Location Siting and Design Guide.

## 5.2. National Planning Framework (First Revision 2025)

- 5.2.1. National Policy Objective 28 of the National Planning Framework (NPF) states the following in relation to one-off rural housing in the countryside:

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large 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 smaller towns and rural settlements.

- 5.2.2. Additionally National Policy Objective 29 of the NPF states “Project the need for single housing in the countryside through the local authority’s overall Housing Need Demand Assessment (HNDA) tool and county development plan core strategy processes”.

## 5.3. Regional Spatial and Economic Strategy (RSES) - Northern and Western Region

- 5.3.1. An ambition of the RSES is that “*Compact growth will be pursued to ensure sustainable growth of more compact urban and rural settlements, supported by jobs, houses, services and amenities, rather than continued sprawl and unplanned, uneconomic growth*”. Smaller town, villages and rural areas are feature in the RSES in particular “*The careful management of development within rural areas is necessary to ensure that they remain and grow as vibrant communities and the*

*issues of connectivity and accessibility are explored in more detail within Growth Ambition 3: Connected Region”.*

5.3.2. Growth Driver: Compact Growth states “In order to achieve the NPF targets and importantly to address the weak urban structure, the RSES growth strategy has taken a strategic approach to, in summary, develop urban places of regional-scale through:

- Delivering on the population targets for the Metropolitan and Regional Growth Centres through compact growth.
- Delivering significant compact growth in Key Towns.
- Developing derelict and underutilised sites, with an initial focus within the footprint of urban areas.
- Delivering critical enabling infrastructure and services”.

#### 5.4. **Water Framework Directive**

5.4.1. The Water Framework Directive (WFD) Directive 2000/60/EC focuses on ensuring good qualitative and quantitative health, i.e., on reducing and removing pollution and on ensuring that there is enough water to support wildlife at the same time as human needs.

5.4.2. The key objectives of the WFD are set out in Article 4 of the Directive. It requires Member States to use their River Basin Management Plans (RBMPs) and Programmes of Measures (PoMs) to protect and, where necessary, restore water bodies in order to reach good status, and to prevent deterioration. Good status means both good chemical and good ecological status. It establishes a framework for the protection of all inland surface waters, transitional waters, coastal waters and groundwaters.

#### 5.5. **Section 28 Guidance**

5.5.1. Sustainable Rural Housing – Guidelines for Planning Authorities

5.5.2. These guidelines state that development plans should facilitate the housing need of the rural community while directing urban generated housing to settlements. The guidelines go on to state that the housing requirements of persons with a link to the

rural area should be facilitated in the area it arises subject to normal siting and design requirements.

5.5.3. Development Management Guidelines, 2007.

## **5.6. Natural Heritage Designations**

5.6.1. The subject site is not located within or adjacent to any European Site. The closest European Sites, part of the Natura 2000 Network, are:

- Sheephaven SAC (001190) – c. 0.36km from the appeal site.

## **5.7. EIA Screening**

5.7.1. I refer the Coimisiún to the completed Form 1 and Form 2 in Appendix A.

5.7.2. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A third party appeal has been received by Jim and Margaret Carey and Sharon and Gregor McClean. The issues raised can be summarised as follows: -

- Rural Housing Need – the applicant has a permanent home on the same landholding.
- Need was not established as required by the County Development Plan and the Sustainable Rural Housing Guidelines.
- Siting, location and design – large two storey back land dwelling is proposed creating a new building line.
- Overlooking and overshadowing of adjoining dwellings – resulting in privacy, enjoyment and value of home completely compromised.
- The siting of the dwelling on the overall landholding is questionable.

- The proposal does not meet the requirements for lines of sight onto the public road.
- This is a very small and narrow road which is used heavily as a short cut from Creeslough Main Street to Doe Castle.
- It would be inappropriate to increase traffic at this location.
- In respect of Water and Wastewater the soil conditions on site are very poor and the land floods regularly. The EHO raised concerns, and this was not addressed meaningfully.
- Natura Impact Statement – a screening report was carried out by a member of Donegal County Council; there is no ecology report or any oversight by an appropriately trained ecological professional.
- The site is directly linked to the Sheephaven SAC – given the amount of landfill and ground disturbance that will be necessary to develop the extensive roadway to the site and the site itself, there will be a threat of water pollution.
- The applicant does not have the necessary splays due to the obstruction for the adjoining property, nor does the applicant have the necessary consents to carry out the works on the adjoining third party lands to do so. This poses a significant traffic hazard.
- Concern in respect to the occupancy of the dwelling – the applicant already has a permanent dwelling so there is no housing need.
- Privacy and security issue given the location of the proposed driveway and dwelling.
- It is believed that this development is backland and is contrary to Policy RH-P-9 (a) of the Development Plan.
- The location of the proposed septic tank and percolation area is prone to flooding.
- Concern that the applicant has not adequately demonstrated that the proposed wastewater treatment system and soil polishing filter is capable of treating and discharging effluent without risk to public health.

- Concern that the applicant has not demonstrated that the existing percolation area within the site would not be detrimental to the health of future occupants as well as neighbouring properties as per Chapter 6, Policy RH-P-9 (b) iv of the Development Plan.

## 6.2. Applicant Response

6.2.1. Michael Friel Architects and Surveyors responded to the issues raised in the third party appeals on behalf of the applicant, Shaun Brennan. Their response can be summarised as follows:

(i) Vision Lines available from the entrance to the site:

- This is an existing entrance which has been used for many years by the applicant.
- Under the permission granted to the northwest of the access road 68metre vision lines were to be provided as per planning condition. These vision lines should have been maintained into the future. The erection of the wall has disenfranchised the applicant insofar as the vision lines which were in place in advance of the wall being erected have been impeded.
- The entrance is set back 2.4 metres from the road edge and vision lines are available at this location currently and into the future.
- A speed survey was carried out on the road, which was conducted on the 5<sup>th</sup> and 6<sup>th</sup> of June over a two hour period and showed a total of 5 vehicles using the road on both days.
- The average speed of the vehicles using the road was 39.4 km/hr with an 85<sup>th</sup> percentile speed of 46.35 km/hr.
- The vision lines are in place to the west, albeit crossing over the third party wall which cannot be raised without planning permission due to the conditions of the grant of permission (Ref. 05/2716) on the adjoining site.
- The necessary sight lines are in place in an easterly direction.

- The entrance is existing serving an existing derelict dwelling and farmyard.
- Given the vehicle speed on the road the existing sight lines at this location serve as compliant with relevant Policy.
- At no stage was this access laneway not in use.

(ii) Backland Development:

- The site is located within a cluster of existing buildings.
- Backland development can be defined when a new row of development is beginning to commence, the claim that this could be backland development is unfair and untrue in this instance.

(iii) Flooding:

- The area does not flood at any time of the year.
- Works have taken place to ensure that no flooding occurs on the land which will also ensure that no flooding occurs on third party lands.
- A 300mm pipe will accept the surface water from the site and will ensure that all waters from the site will be adequately and properly dealt with.

(iv) Environmental Health Officer:

- The site assessor has recommended that a wastewater treatment module with spoil polishing filter and 300mm of imported topsoil will be spread over the location of the polishing filter.
- This was assessed and considered acceptable by the Planning Officer and the EHO, who had an opportunity to comment on the proposal and has inserted a number of conditions.

(v) Housing Need:

- The applicants housing need (redacted from public view due to the genuine and personal nature of same) has been demonstrated and is considered to comply with the policies of the Donegal County Development Plan 2024-2030.



(vi) Privacy and Security Issues:

- The driveway is already in place and the proposal is to utilise the existing driveway, which is extensively used for the purpose of access to the existing land and buildings on site.
- The applicants planted a hedge which is now maturing which will offer a screening between the applicants' property and the appellants property.

(vii) Natura Impact Statement:

- The location of the proposed development is not within a Natura 2000 Site.
- Three planning applications were granted within 3000m of the site and no Natura Impact Statement was requested on any of these applications so the Council is being consistent insofar as they screened out any threat which the development may have on the SAC.

### **6.3. Planning Authority Response**

6.3.1. A response has been received from the planning authority's stating the contents of the third party appeals have been noted, and that the majority of the matters raised by the appellants have previously been addressed in the planning reports by the Executive Planners dated 22/04/2024, 09/07/2024 and 29/08/2024. The Planning Authority also responded to the specific grounds of appeal as follows:

- (i) Vision Lines and Traffic Safety – "A traffic speed survey was submitted with the application, which confirmed the 85th percentile speeds in both directions on the local road (45.11kph and 47.6kph). Vision lines of 70m in both directions are achievable and were accepted. It was noted that this is an established entrance and that while the vision lines cross a stone wall and railing on third party lands to the south-west, the wall/railing would need to be maintained in order to allow the third party to achieve adequate vision lines at their own vehicular entrance. Therefore, it was considered that no consent from third parties was required as no works are required to achieve or maintain vision lines. An inspection of the site was also undertaken by the Executive Planner and the proposed access was considered to be acceptable".

- (ii) Housing Need – “The applicant confirmed in their application that the proposed dwelling would be their primary, principal and permanent residence and also provided a letter from an Elected Member of Donegal County Council confirming the applicant’s rural need. This confirmed the applicant’s rural housing need and compliance with rural housing policies. A condition was also attached to the decision issued restricting the use of the dwelling to that of a principal place of residence”.
- (iii) Wastewater – “The Planning Authority issued a decision on the application on 29 August 2024 to ensure compliance with statutory timescales, and it was noted within the recommendation report that although a response from the EHO had not been received at that point, it was considered that the outstanding matter relating to the size of the percolation area could be dealt with by condition due to the large plot size. On 30 August 2024 a response was received from the EHO in relation to the Further Information (Matters Arising). While this was received after a decision had been made on the application it should be noted that the EHO’s written response raised no objections to the proposed development based on the FI response and recommended a number of standard conditions”.
- (iv) Siting and Design – “The proposed location and design of the dwelling was considered to be acceptable. It was noted that while most of the existing dwellings immediately adjacent to the site are single storey in character, there is also a traditional 2 storey farmhouse located within the cluster of dwellings in this area and a number of 2 storey dwellings have also recently been granted planning permission on the same local road, a short distance from the subject site. It was considered that the dwelling would read as a cluster with the surrounding dwellings and would not affect the residential amenity of the existing houses”.
- (v) Appropriate Assessment – “The development was screened for Appropriate Assessment as the site is located 360m from Sheephaven SAC. Due to the scale of the development and its distance from the SAC, the Planning Authority considered that Appropriate Assessment would not be required”.

#### 6.4. Observations

None received.

### 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the third party appeals (the subject matter of this appeal), the applicant's response received, the local authority response received, the site inspection and having regard to the relevant policies, objectives, and guidance, I am satisfied that the main issues to be considered are those raised in the grounds of appeal, and no other substantive issues arise. The main issues in determining this appeal are as follows:

- I. Principle of Development (Local Need/Backland Development)
- II. Sight Lines and Traffic Impact
- III. Impact on residential amenity/visual impact
- IV. Water and Wastewater Treatment,
- V. Water Framework Directive,
- VI. Appropriate Assessment, and
- VII. Other Matters.

This assessment represents my de novo consideration of all planning issues material to the proposed development.

#### 7.2. Principle of Development (Local Need/Backland Development)

- 7.2.1. As noted above the Donegal Development Plan 2024 – 2030 came into effect during the assessment of this planning application.
- 7.2.2. Therefore, the subject site is located within an area designated as a "Structurally Weak Rural Area" under the 2024-2030 Plan. As such proposals for one off housing within these areas (i.e. Structurally Weak Areas) must comply with RH-P-3 "*To consider proposals for new one-off housing within 'Structurally Weak Rural Areas' from any prospective applicants for a dwelling house, subject to siting and design*

*considerations and compliance with all other relevant policies of this Plan including Policy RH-P-9. New holiday homes will not be permitted in these areas”.*

- 7.2.3. Policy RH-P-9 states “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)”.*

7.2.4. Concerns have been raised in the third party appeals in relation to the applicants rural housing need, however as noted in the forgoing policy in relation to “Structurally Weak Rural Areas” the applicant is not required to demonstrate a rural local need to reside within a ‘structurally weak rural area’. Notwithstanding, the applicant has demonstrated their need for the proposed dwelling as part of the planning application and first party response to the appeal, which I consider to be acceptable.

7.2.5. The appellants consider the proposal to constitute backland development. However, having regard to the site context, the appeal site is located within a cluster of dwellings and other buildings, including sheds and derelict cottages all located to the south site of the Magheraroarty Road in close proximity to each other. While the appeal site may be considered set in from the main road, it has direct access to the main road and is not located to the rear of another dwelling, as such I do not consider that the proposed additional development to be backland development. I also note that the additional dwelling will not give rise to ribbon development in this instance. Therefore, it is appropriate to assess the proposal in accordance with the aforementioned Development Plan Policies and Objectives.

7.2.6. Having regard to the nature and scale of the proposal and the surrounding rural context, I am satisfied the proposal meets the relevant locational and specific development management criteria listed above for RH-P-3 and RH-P-9 and will be further assessed in the following report.

7.2.7. As such I consider the principle of the proposed development to be appropriate in this 'Structurally Weak Rural Area' location.

### **7.3. Sight Lines and Traffic Impact**

7.3.1. Concerns have been raised in the appeal in respect of the proposed sightlines onto the public road, the increased traffic on the road and the potential traffic hazard as a result. The lack of consent to carry out works has also been referenced in the appeal.

7.3.2. I note that the planning authority requested further information in respect to a Traffic Speed Survey given the speed on this rural road, which was carried out with the avg 85th % speed of 45.11kph and 47.6kph in each direction thereby equating to an avg speed of 46.36kph requiring 70m VL.

7.3.3. At time of site inspection, I noted that the site is currently served by an existing vehicular access, which appears to serve the existing agricultural lands pertaining to the appeal site within the applicant's landholding. There is an existing derelict cottage on site, and therefore it is assumed that this entrance was historically utilised to serve an existing dwelling on this site. Notwithstanding, appropriate sight lines can be achieved to the east of the site. To the west/southwest there is an existing low stone wall with railing over, which in my view provides adequate sightlines to the west/southwest of the site. To the east there is an unobstructed view.

7.3.4. In respect to additional traffic on the rural road, I do not consider that the provision of one additional dwelling at this location would result in an unacceptable level of traffic generation at this location.

### **7.4. Impact on Residential Amenity/ Visual Impact**

7.4.1. Concerns have been raised in relation to the potential impact of the proposed development on the adjoining residential amenity, in particular overlooking, overshadowing and loss of privacy.

- 7.4.2. The location of the proposed development within a rural setting adjoining residential dwellings is noted, however, the proposed dwelling is located to the eastern boundary of the site due southeast of the rear of the nearest dwelling. Regard is also had to the overall landholding associated with the proposed development and the position and orientation of the proposed dwelling within the lands. Moreover, the site is accessed via an existing entrance which is used to access the existing agricultural lands. As such, I am satisfied that the proposed dwelling will not detract from adjoining residential amenity in respect of potential overlooking, loss of privacy or overshadowing impacts.
- 7.4.3. Concern was raised in respect to the location of the proposed dwelling on this site. In relation to the visual impact, I do consider that the design of the proposed development exhibits some sensitivity towards their rural environment in terms of height, form, and materials. I also note the position of the proposed dwelling, to the eastern site boundary, will in my opinion, assist in its visual dominance when viewed from the adjoining road/sites. The existing hedgerows will also be retained. From the perspective of visual amenity, and based on the information submitted with the application, it is my assessment that the finished dwelling associated garage and driveway are unlikely to result in a significant negative impact on the visual amenity of neighbouring properties or the rural area overall.
- 7.4.4. As such, I am satisfied that the dwelling proposed as per the revised plans submitted to the planning authority by way of further information does not impact negatively on adjoining residential or visual amenity and complies with the Rural Housing Location Siting and Design Guide.

## **7.5. Water and Wastewater Treatment**

- 7.5.1. Concerns have been raised in the third party appeal in relation to the proposed wastewater treatment system its impact on public health, its location within the site and that the site is prone to flooding. It is further considered that the concerns raised in the planner's assessment were not addressed by the applicant.
- 7.5.2. In relation to water supply a new connection is proposed to the public mains.
- 7.5.3. The site is not located within a flood zone and is not within a watercourse. At time of my site inspection, there was no evidence of flooding on the site.

- 7.5.4. In relation to wastewater management a new on site treatment system is proposed. I note as part of the assessment the Planning Authority requested further information in respect to the current usage of the existing wastewater treatment and disposal arrangements currently serving the adjacent properties and to engage with the Environmental Health Officer in respect to the provision of a wastewater treatment system on site.
- 7.5.5. As part of the further information response the applicant submitted a revised site layout showing the relocation of the septic tank and percolation area to give adequate separation distance from the existing septic tank on site that is serving the existing house to the southwest. The applicant also confirmed that there are 4 no. houses circa 250meters from proposed house.
- 7.5.6. The Site Characterisation Report submitted with the application identifies that both groundwater and surface water are potential targets at risk. The ground conditions and vegetation present would suggest moderate percolation. Surface water run off and seepage will have to be intercepted and diverted away from the proposed percolation area. There are no specific site restrictions at the site at time of inspection, and it was considered that the site is potentially suitable for an on site wastewater treatment system. A ground protection response to R21 is noted.
- 7.5.7. Accordingly, I note the suitability of the site for a treatment system (subject to normal good practice, i.e. system selection, construction, operation and maintenance).
- 7.5.8. The trial hole depth referenced in the Site Characterisation Report was 2.0 metres. Bedrock was not encountered; the water table was encountered at 1.1m. The soil conditions found in the trial hole are described as comprising silt/gravel and clay. Percolation test holes were dug and pre-soaked. The average T-Value was 49.16min/25mm. The average P-Value was 54.25 min/25mm.
- 7.5.9. The applicant proposes to install a Wastewater treatment module (min PE 6) and soil polishing filter as described in of the EPA, CoP 2021, and to remove 1m Topsoil and gravel silt layer, Import 300mm topsoil with a P value of 3 - 20 & insert percolation trenches above this, area between trenches to be filled with imported topsoil Polishing filter will consist of 5 Trench lengths x 10m. Trenches to be 500mm wide and 550mm deep with pipe runs to be 2.5m center to center and covered with a Geotextile Membrane. 300mm imported Topsoil shall be distributed over the



polishing filter. All Minimum Separation Distances as set out in the EPA, and Soil Polishing Filter to be Installed in accordance with the CoP 2021 Table 7.3 with the exception that the Trench lengths shall not exceed 10m.

- 7.5.10. I note that separation distances for placing the WWTS and effluent disposal area are such, that any excavation work required for the wastewater treatment and disposal system does not undermine adjacent features, such as buildings, roads, or walls and therefore complies with the EPA code of practice.
- 7.5.11. The Planning Authority's response to the appeal noted that a response was received from the Environmental Health Officer, whilst this was following the decision from the local authority, the report stated no objection to the proposed development based on the further information response subject to conditions.
- 7.5.12. Having regard to the detail submitted with regard to site suitability, I am of the opinion that the development is unlikely to pose any adverse impact on groundwater quality at this location, provided that correct installation procedures are followed, and ongoing maintenance is carried out.

**7.6. Other Matters:**

Property Value:

- 7.6.1. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring properties. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

7.6.2. Occupancy:

Reference is made in the third party submission to the occupancy of the dwelling. I recommend that an occupancy condition be attached to any grant of permission.

**7.7. Water Framework Directive**

- 7.7.1. The subject site is not located adjacent to a water body.
- 7.7.2. The proposed development comprises the erection of a dwelling house with septic tank and domestic garage including all associated site works.

- 7.7.3. I have assessed the construction of a dwelling, garage and associated site works 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.
- 7.7.4. 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.
- 7.7.5. The reason for this conclusion is as follows :
- Small scale and nature of the development.
  - Lack of hydrological connections.

#### Conclusion

- 7.7.6. I conclude that on the basis of objective information, that the proposed 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.

#### **7.8. Appropriate Assessment**

- 7.8.1. Concerns have been raised in the third party appeals in respect to the impact of the proposed development on the Sheephaven SAC and the lack of an ecology report. The Council carried out an Appropriate Assessment Screening and determined “*That an appropriate assessment of the development is not required as it can be excluded on the basis of objective scientific information that the proposed development will have a significant effect on nearby Natura 2000 Sites i.e. Sheephaven SAC*”.
- 7.8.2. The applicant stated that the site is not within a Natura 2000 Site and contends that the planning authority are correct in their determination. As such I refer the Coimisiún to Appendix B – Appropriate Assessment Screening Determination of this report.

#### **7.9. Screening Determination Conclusion**

- 7.9.1. I am satisfied the potential for significant effects, as a result of the proposed development the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000 is not required.
- 7.9.2. There is no terrestrial or direct hydrological or groundwater pathway between the development site and any Natura 2000 site.
- 7.9.3. I am further satisfied the potential for significant effects, as a result of surface and foul waters generated during the construction and operational stages, on the qualifying interests any Natura 2000 sites can be excluded.
- 7.9.4. No habitat fragmentation to any Natura 2000 site is predicted and there is no potential for impacts on the qualifying interests of Natura 2000 sites due to noise and other disturbance impacts during construction and operational phases given the level of separation between the sites.
- 7.9.5. It is evident from the information before the Coimisiún that on the basis of the nature and scale of the proposed development on the lands, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, observations the information submitted as part of the appellants Appropriate Assessment Screening report that the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.
- 7.9.6. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically in relation to any potential impact to a Natura 2000 site.

## 8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below, for the following reasons and considerations.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Donegal County Development Plan 2024-2030, the location of the site within an established rural cluster, the scale of the proposed development, the existing entrance to the site and the overall landholding, it is considered that, subject to compliance with the conditions set out below, the development to be would be appropriate in terms of scale, height and layout, would not adversely impact on the residential or visual amenity of neighbouring properties, nor impact on the character or visual amenity of the existing rural area, would not be prejudicial to public health and would be acceptable in terms of traffic and pedestrian safety. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, received by the planning authority on the 6<sup>th</sup> day of March 2024, as amended by the further information received on 26<sup>th</sup> day of April 2024, and the clarification of further information received on 22<sup>nd</sup> day 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.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>(i) The premises the subject of this permission shall (when constructed) be used for the purposes of a dwelling and subject to paragraph (iii) below the following restrictions shall apply during the period of seven years commencing on the first such use –</p> <p>(a) The dwelling shall be used as the principal place of residence of the applicant or with the written consent of the Planning Authority by any person(s) with a need for a dwellinghouse, and</p> <p>(b) This permission will inure only for the benefit of the land and such persons entitled to use the dwelling as per paragraph (a) above and</p> <p>(c) The above restrictions will be embodied in an agreement under Section 47 of the Planning and Development Act, 2000 (as amended) to be entered into on the first application being made for written consent per paragraph (a) above and where a consent is granted the entry into the agreement will be a condition precedent of such consent.</p> <p>(ii) Within two months of the first use/occupation of the dwelling, the applicant shall submit to the Planning Authority written confirmation of the person(s) using/occupying the dwelling in accordance with paragraph (a) and the date of commencement of such use/occupation.</p> <p>(iii) The above restrictions shall cease to apply (earlier than the seven year period stipulated) on a sale of the dwelling by a mortgagee in possession but excluding use of the dwellinghouse as a holiday home.</p> <p>Reason: In order to define the terms of the permission and to comply with the Rural Housing Policy of the County Donegal Development Plan, 2024-2030.</p>
3.	<p>The dwelling shall be occupied as a single residential unit and shall not be used for any other purpose, including short-term letting, unless authorised by a prior grant of planning permission. The principal use of the application site shall remain in private residential use.</p> <p>Reason: In the interests of the proper planning and development of the area.</p>

4.	<p>The proposed domestic garage shall be used for purposes incidental to the enjoyment of the dwelling and shall not be used for any commercial/trade/industrial or residential use shall be established therein.</p> <p>Reason: In the interests of orderly development.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only, the colour of the ridge tile shall be the same as the colour of the roof. The use of dry dash, brick or reconstituted stone shall not be permitted.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Prior to commencement of development, permanent visibility splays of 70 metres shall be provided in each direction to the nearside road edge at a point 2.4 metres back from road edge at location of vehicular entrance. Visibility in the vertical plane shall be measured from a driver's eye- height of 1.05 metres and 2 metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision splays to be calculated and provided as per Figure 16.2 of Chapter 16 of the County Donegal Development Plan, 2024-2030.</p> <p>Reason: In the interests of traffic safety</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during</p>

	<p>the course of the works and the applicant shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: To protect the amenities of the area.</p>
9.	<p>The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>Reason: In the interests of sustainable drainage.</p>
10.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) A plan to scale of not less than [1:500] showing –</p> <p>(i) Existing trees, hedgerows, shrubs, rock outcroppings, stone walls, specifying which are proposed for retention as features of the site landscaping.</p> <p>(ii) The measures to be put in place for the protection of these landscape features during the construction period</p> <p>(iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as Fearnog (Alder/<i>Alnus glutinosa</i>), Crann Creathach (Aspen/<i>Populus tremula</i>), Draighean (Blackthorn/<i>Prunus spinosa</i>), Crann Fia-Ull (Crab apple/<i>Malus sylvestris</i>), Coll (Hazel/<i>Corylus avellana</i>), Sceach Gheal (Hawthorn/<i>Crataegus monogyna</i>), Cuileann (Holly/<i>Ilex aquifolium</i>), Dair Ghallda (Pedunculate Oak/<i>Quercus robur</i>), Dair Ghaelach (Sessile Oak/<i>Quercus petraea</i>), Caorthann (Rowan/Mountain Ash (<i>Sorbus aucuparia</i>), Fionncholl (Whitebeam/<i>Sorbus spss</i>), Saileach (Willow/<i>Salix spss</i>), Leamhan Sleibhe (Wych Elm/<i>Ulmus Glabra</i>).</p> <p>(iv) Details of screen planting.</p>

	<p>(v) Details of roadside/street planting.</p> <p>(vi) Hard landscaping works, specifying surfacing materials, and finished levels.</p> <p>(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment</p> <p>(c) A timescale for implementation including details of phasing.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
11.	<p>The developer shall ensure that a clean, potable water supply is provided prior to first occupation which complies with the E.U. (Drinking Water) Regulations, S.I. No. 99/2023.</p> <p>Reason: In the interests of public health, residential amenity and proper planning.</p>
12.	<p>(a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent <math>\leq 10</math>)" – Environmental Protection Agency, 2021.</p> <p>(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent <math>\leq 10</math>)" – Environmental Protection Agency, 2021. (c) Within three months of the first occupation of the dwelling, the developer shall</p>



	<p>submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.</p> <p>Reason: In the interest of public health and to prevent water pollution</p>
13.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and [residential] amenity.</p>
14.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Coimisiun Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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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Emma Nevin  
Planning Inspector

28<sup>th</sup> August 2025

## Appendix A - Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP-320761-24
<b>Proposed Development Summary</b>	Construction of house, garage including all other associated site development works
<b>Development Address</b>	Magheraroarty, Creeslough, Co. Donegal
<b>In all cases check box /or leave blank</b>	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (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.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>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?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	N/A

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	N/A
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>Class 10 Infrastructure Projects (b) (i)</p> <p>Proposed development for 1 residential unit, therefore sub-threshold. Preliminary examination required.</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"/>	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

## Appendix A - Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP-322064-25
<b>Proposed Development Summary</b>	Construction of House, garage including all other associated site development works
<b>Development Address</b>	Magheraroarty, Creeslough, Co. Donegal
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (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 involves the construction of a two storey dwelling house, detached garage, wastewater treatment system and percolation area along with site entrance and boundary treatments, all on land located in a rural area.</p> <p>During the construction phase, the proposed development would generate waste during excavation and construction.</p> <p>However, given the moderate size of the proposed development, I do not consider that the level of waste generated would be significant in the local, regional, or national context.</p>
<b>Location of development</b>  (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 capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<p>The site is not located in a European Sites; however it is in close proximity to the Sheephaven SAC (Site Code 001190).</p> <p>An Appropriate Assessment Screening has been carried out (Appendix B), and I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites within the area namely, Sheephaven SAC (Site Code 001190), or any other European site.</p>
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary,	<p>Localised construction impacts will be temporary. The proposed development would not give rise to waste, pollution or nuisances beyond what would normally be deemed acceptable.</p>

intensity and complexity, duration, cumulative effects and opportunities for mitigation).	
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	N/A
There is a real likelihood of significant effects on the environment.	N/A

Inspector: \_\_\_\_\_ Date: 28th August 2025

## Appendix B – Appropriate Assessment Screening Determination

### Screening for Appropriate Assessment

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

I have considered the [title of project] in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

A screening report for Appropriate Assessment was not submitted with this planning appeal case. However, in the Local Authority assessment of the proposed development, Appropriate Assessment Screening was undertaken by Donegal County Council as part of their planning assessment and a finding of no likely significant effects on a European Site was determined. Donegal County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.

A detailed summary is presented in Section 2 of my report. In summary, the proposed development site is a greenfield site within a rural area, surrounded by a cluster of rural houses and associated agricultural land. The development will comprise the construction of House, garage including all other associated site development works. The development includes a wastewater treatment system. Water will be connected to local services.

There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area.

#### European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). One European site is located within 360 Kilometers of the potential development site.

- Sheephaven SAC (Site Code 001190)

European Site	Qualifying Interests (summary)	Distance	Connections
Sheephaven SAC (Site Code 001190)	Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (Glauco- Puccinellietalia maritimae) [1330]	<b>360m</b>	No direct connection

	Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]  Embryonic shifting dunes [2110]  Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]  Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]  Humid dune slacks [2190]  Machairs (* in Ireland) [21A0]  Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]  <i>Euphydryas aurinia</i> (Marsh Fritillary) [1065]  <i>Petalophyllum ralfsii</i> (Petalwort) [1395]		
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#### **Likely impacts of the project (alone or in combination)**

Due to the nature of the development site, I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.

The proposed development would not have a direct impact on any European site. During site clearance, and construction of the proposed development and site works, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water.

The contained nature of the site (defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to Sheephaven SAC (Site Code 001190) make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

#### **Likely significant effects on the European sites in view of the conservation objectives**

The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SAC. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance.

There will be no direct or ex-situ effects from disturbance to any birds (ex-situ) during construction or operation of the proposed development.

#### **In combination effects**

The proposed development will not result in any effects that could contribute to an additive effect on other developments in the area.



No mitigation measures are required to come to these conclusions. I consider the provision of the oil/petrol interceptor a standard measure to prevent ingress of vehicle pollutants and is not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC.

### **Overall Conclusion**

#### **Screening Determination**

Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites within the area namely, Sheephaven SAC (Site Code 001190), 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 and lack of impact mechanisms that could significantly affect a European Site
- Distance from and weak indirect connections to the European sites
- No significant ex-situ impacts on birds.