



An  
Bord  
Pleanála

## Inspector's Report

**ABP-322251-25**

<b>Development</b>	Dwelling house, garage & septic tank
<b>Location</b>	Castlewray, Letterkenny, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	24/60237
<b>Applicant(s)</b>	Ronan Kelly
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Niall Doherty
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13 <sup>th</sup> May 2025
<b>Inspector</b>	Karla McBride

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**Appendix 1 –**      Form 1: EIA Pre-Screening  
                         Form 2: Preliminary Examination  
                         AA Screening Determination  
                         Water Framework Directive Assessment

## **1.0 Site Location and Description**

- 1.1. The appeal site is located within the townland of Castlewray to the NE of Letterkenny in County Donegal. The site is located within a rural area to the rear of an existing detached 2-storey house and along a local road (L-1134-2). There are several existing and permitted detached houses in the wider area, and planning permission was recently granted for a detached house on the adjoining site to the SW.
- 1.2. The rectangular shaped initially slopes up in a NW direction and then plateaus out, the site boundaries are defined by mature hedgerows and trees, and there is a small, linear wooded area to the NW of the site. The site lies within an Area of High Scenic Amenity. The W boundaries of the Lough Swilly SAC, SPA and pNHA are located c.550m to the E of the site, and there are no other recorded heritage features in the vicinity.
- 1.3. The attached photographs and maps describe the site in more detail.

## **2.0 Proposed Development**

- 2.1. Planning permission is being sought develop the c.0.53ha site to provide:
  - A 2-storey detached house (242sq.m., 8.8m m high, & 40.25m FFL).
  - A single storey detached garage (45sq.m. & 5.07m high).
  - A septic tank & connection to public water supply.
  - Vehicular access off the local road (L-1134-2).
  - Associated site works (incl. landscaping & boundary treatment).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Following the receipt of unsolicited further information in relation to compliance with the Council's rural housing policies and landscaping proposals, the PA decided to grant permission subject to 16 standard conditions.

- No.2 sets out occupancy requirements.

- No.3 sets out permanency requirements (no short term or holiday lets).
- Nos. 4 & 5 set out vehicular entrance requirements.
- Nos. 9 & 10 deal with drainage.
- Nos. 11 & 13 deal with visual amenity (services, roof tiles & landscaping).
- No.12 restricts the use of the garage to ancillary domestic purposes.
- Nos. 14 & 15 deal with water supply & wastewater treatment.
- No.16 requires payment of a development contribution.

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

#### **3.2.1. Planning Reports**

- The Planning Officer's report assessed the proposed development under the standard range of issues (incl. policy compliance, siting & design, residential amenity, access / traffic safety, public health & European sites), it concluded that the proposed development was acceptable, and it recommended a grant of planning permission subject to conditions.

#### **3.2.2. Other Technical Reports**

- Area Roads Engineer: no report received.
- Councillor Brogan: letter confirming compliance with Policies RH-P-1 & 9.

### **3.3. Prescribed Bodies**

- DoCHG (wildlife): no report received.
- Irish Water: no report received.

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

One submission received from Mr Niall Doherty who recently received planning permission for a detached house on the adjoining site, which raised concerns in relation to: - lack of consultation by the applicant; inadequate boundary planting & screening; loss of view from permitted house; overdevelopment of site; history of

refusals of permission for houses on the site; and no consent for works on adjoining lands.

## 4.0 Planning History

### Appeal site:

**PL05D. 209361:** O/L permission granted by DCC (04/6397) for 2 x houses and refused by ABP for 4 x reasons related to:

- Excessive density of suburban type houses in a rural area.
- Traffic generation along a substandard local road.
- Wastewater treatment & prejudicial to public health.
- Inadequate surface water drainage & flood risk.

**Reg. Ref. 06/40607:** permission refused by DCC for 1 x house for 3 x reasons related to:

- Rural housing need not demonstrated.
- Unsustainable haphazard development.
- Undesirable precedent in rural area.

### Adjoining site:

**23/51575:** permission granted by DCC for 1 x house subject to 16 x standard conditions (incl. occupancy restrictions).

## 5.0 Policy Context

### National Planning Framework & National Development Plan

These documents set out a strategic vision for the future development of the country including the renewal of rural areas and strengthening of rural communities. They seek to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, and 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.

#### 5.1. Sustainable Rural Husing Guidelines, 2005

The site is located within an area that is Under Strong Urban Influence.

#### 5.2. Donegal Development Plan 2024-2030

The appeal site is in a rural area that is covered by the policies and objectives of the current Development Plan. The site lies within an area that is identified as being “Under Strong Urban Influence” and Rural Housing Policy RH-P-1 applies.

**Policy RH-P-1:** seeks to consider proposals for new one-off rural housing within ‘Areas Under Strong Urban Influence’ from prospective applicants that can provide evidence of a demonstrable economic or social need (see ‘Definitions’) to live in these areas including, for example, the provision of evidence that they, or their parents or grandparents, have resided at some time within the area under strong urban influence in the vicinity of the application site for a period of at least 7 years. The foregoing is subject to compliance with other relevant policies of this plan, including Policy RH-P-9. This policy shall not apply where an individual has already had the benefit of a permission for a dwelling on another site, unless exceptional circumstances can be demonstrated. An exceptional circumstance would include, but would not be limited to, situations where the applicant has sold a previously permitted, constructed and occupied dwelling, to an individual who fulfils the bona fides requirements of that permission. New holiday homes will not be permitted in these areas.

**Definitions:**

1. Immediate family members are defined as: Sons, daughters, mothers, fathers, grandparents, grandchildren, brothers, sisters, aunts, uncles, nieces or nephews of the applicant.
9. Social Need is defined as: Persons who are Intrinsic part of the Rural Community including:
  - Farmers, their sons, and daughters and or any persons taking over the ownership and running of farms.,
  - People who have lived most of their lives in rural areas.
  - Returning emigrants who lived for substantial parts of their lives in rural areas.

**Policy RH-P-9:**

- a. Proposals for individual dwellings 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).

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

**Policy BIO-P-1:** seeks 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.

**Policy TS-P-1:** seeks to require compliance with the following technical standards, where applicable, in addition to all other relevant policy provisions of this Plan and relevant Governmental guidance and standards.

### 5.3. Natural Heritage Designations

- Lough Swilly SAC, SPA & pNHA is located to the E.

## **6.0 EIA Screening**

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

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

One Third Party appeal received from Mr Niall Doherty, who recently received planning permission for a detached house on the adjoining site:

- No consultation by the applicant.
- Inadequate boundary planting, screening & landscaping.
- Loss of view from permitted house & overdevelopment of small site.
- Planning history of refusals of permission for houses on the site.
- No consent for works on adjoining lands (incl. vision splays).

### **7.2. Applicant Response**

- Complies with Rural Housing Policy for Areas Under Strong Urban Influence (RH-P-1); bona fide letter submitted from Cllr Ciaran Brogan; house will be occupied by a family member with a demonstrated need (NPF Obj.19); and demonstration of need support by Kevin Kelly (applicants' father).
- Previous proposals for 2 houses were assessed under a different Dev. Plan and against different wastewater & road safety standards; occupancy condition attached; reflects character of established cluster of development; and Objector granted permission for a similar scale of house on adjoining site.

- Consistent with relevant Dev. Plan standards in relation to traffic safety, wastewater treatment & design (160m sightlines, complies with EPA guidance, surface water discharge to roadside drain & landscaping provided).
- No loss of, or entitlement to a view; adequate separation distances; no overlooking, overshadowing or visual dominance; supplementary landscaping proposed; adequate visibility splays & access; in keeping with established character of area; and no aquatic connection with protected sites.
- ABP is required to carry out a de novo assessment of proposal under S.37.

### 7.3. Planning Authority Response

#### ***Planning history:***

- Previous applications were refused permission in early 2000s, under a previous Development Plan.
- Spatial pattern of development since then indicates a high level of development pressure which has resulted in a built-up cluster in the area.
- The backland location is now an established characteristic of the area, and permitted the house on the adjoining site has a similar large setback.
- No adverse impact on character of the area given the established precedent.

#### ***Access:***

- Vision lines of 160m proposed at site entrance off the local road as per Table 16.5 of the current Dev. Plan.
- Visibility splays for not traverse third party lands.

#### ***Public health:***

- Satisfied with results of the Site Suitability Assessment report.
- Wastewater can be adequately treated & disposed of, and surface & storm will connect to an existing open roadside drain along the local road.
- Proposal is consistent with relevant Dev. Plan policies.

#### **7.4. Observations**

- None received.

#### **7.5. Further Responses**

- None received.

## 8.0 **Assessment**

8.1. The main issues arising are:

- Principle of development
- Siting and Design
- Residential amenity
- Drainage
- Vehicular access
- Other issues

### 8.1.1. **Principle of development**

The proposed development would be located within a rural area c.5.5km to the NE of Letterkenny, and within an area that is “Under Strong Urban Influence” in the Donegal County Development Plan 2024 to 2030. Policy RH-P-1 applies and this policy, as summarised in section 5.1 above, requires applicants for new one-off rural housing to provide evidence of a demonstrable economic or social need to live in these areas (incl. long term immediate family with connections to the area for a period of at least 7 years). The foregoing is subject to compliance with other relevant policies, including Policy RH-P-9, as summarised in section 5.1 above, which deals with siting, design, visual amenity, natural heritage, road safety and drainage arrangements, as well as requiring an occupancy condition, and new holiday homes are not permitted.

Chapter 6 of the Development Plan contains a Definitions section which defines “Immediate family members” as including sons, daughters, mothers, fathers, grandparents, grandchildren, brothers, sisters, aunts, uncles, nieces or nephews of the applicant. It defines social need as “Persons who are Intrinsic part of the Rural Community” including people who have lived most of their lives in rural areas.

The applicant has not submitted any documentary evidence in support of his rural housing need. However, an Elected Member of Donegal County Council (Cllr Ciaran Brogan) submitted a letter to the planning authority which seeks to confirm that the applicant complies with Policies RH-P-1 and RH-P-9 of the Development Plan. I note

from the Planning Officer's report that the submission of a bona fide letter from an Elected Member is acceptable and in accordance with Council practice and procedures. The applicant's response submission to the Third Party appeal contained a letter from his father (Mr Kevin Kelly) which seeks to confirm that the applicant has a genuine rural housing need, that the subject lands have been owned by his family for generations, and that the house will be occupied as a permanent residence.

Having regard to the foregoing and based on the information provided, I am reasonably satisfied that the applicant complies with Policy RH-P-1 of the Development Plan and that he has a confirmed social need for a house in this rural area which is "Under Strong Urban Influence". This would be subject to compliance with Policy RF-P-9 and other relevant policies, and the attachment of an occupancy condition. However, if the Commission considers that any additional documentary evidence is required to support the applicant's rural housing need, this could be requested by way of a further information request.

#### **8.1.2. Siting and design**

The proposed development would be located within the rural area of Castlewray c.5.5km to the NE of Letterkenny, and within an area that is "Under Strong Urban Influence" and within an Area of High Scenic Amenity in the Donegal County Development Plan 2024 to 2030. Policies RH-P-1, RH-P-9 and L-P-2 apply, as summarised in section 5.1 above. Compliance with Policy RH-P-1 is assessed in section 8.1.1 above. Policy RH-P-9 deals with siting, design, visual amenity, natural heritage, road safety and drainage arrangements, as well as requiring an occupancy condition, and new holiday homes are not permitted. Policy L-P-2 seeks to protect areas identified as 'High Scenic Amenity' and 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. The DCC "Building a House in Rural Donegal - A Location Siting and Design Guide" is also applicable.

***Siting:***

The proposed house would be located within a in a large rectangular shaped field that initially slopes up moderately from SE to NW and then plateaus out. The site is defined by mature trees and hedgerows along three of its boundaries. The house would be located to the rear of an existing detached 2-storey house that is owned by the applicant's family and this boundary is defined by a post and wire fence.

Permission was recently granted for a detached house on the adjoining field to the SW and the proposed house would be positioned approximately parallel to the permitted house, albeit at a distance. There is another existing house located further to the SW of the site which is set back a substantial distance from the local road and at the S tip of the linear wooded area.

I note that the Board previously refused O/L permission for 2 x houses on the appeal site under PL05D. 209361 in 2005 for 4 x reasons, one of which related to excessive density of suburban type houses in a rural area. DCC subsequently refused permission for 1 x house on the same site in under Reg. Ref. 06/40607 2006 for 3 x reasons, two of which related to related to unsustainable haphazard development and undesirable precedent in rural area. Since then, the rural character of the wider area has changed to a more suburban character and there is now a cluster of detached houses c.400m to the SW of the appeal site and environs. And as previously stated, permission was recently granted for a detached house on the site adjacent to the appeal site.

The Planning Officer had regard to the current spatial pattern in the wider area where there has been a high level of development pressure in recent years that has resulted in a built-up suburban cluster of houses in the general Castlewray area. Given the presence of existing and permitted houses in the vicinity, the Planning Officer considered that the proposed house would be located within a cluster. However, based on my examination of the appeal site and environs along with aerial imagery of the surrounding area, I would disagree with the part of this assessment that relates to the appeal site and immediate environs. There is a considerable separation distance between the existing cluster of houses at Castlewray and the appeal site, and the intervening lands comprise agricultural fields defined by mature



trees and hedgerows, and this area has retained its rural character and agricultural uses.

I note that the area was not been re-zoned for residential / suburban development in the recently adopted Development Plan and that the rural site and environs continue to lie within an area designated as being “Under Strong Urban Influence” and within an Area of High Scenic Amenity. Furthermore, Policy RH-P-9 requires that proposals for individual houses should be sited and designed in a manner that is sensitive to the integrity and character of rural areas which are of ‘Scenic Amenity’, that a proposed house shall avoid the creation or expansion of a suburban pattern of development in the rural area, and that a proposed house should not result in a development which by its positioning, siting or location would constitute haphazard development.

Having regard to the policy provisions for this area, the rural character of the site and environs, and the prevailing pattern of development in the wider area, I am satisfied that the concerns raised in the previous applications for houses on the appeal site remain valid. The proposed house would occupy an elevated site to the rear of an existing house at a substantial distance from the established cluster of houses at Castlewray to the SW. As such, it would give rise to unsustainable haphazard development, and it would set an undesirable precedent for the further expansion of higher density suburban type houses into the intervening rural area. It would also be contrary to Policy RH-P-9 of the Development Plan, and in particular subsection a (i & iii) in relation to siting and suburban spatial patterns of development.

I note that the applicant’s response submission to the Third Party appeal contained a letter from his father (Mr Kevin Kelly) that referenced compliance with Policy RH-P-5 which relate to Clachans that have a traditionally clustered spatial pattern. However, I am satisfied that the evolved pattern of development in the wider area does not equate to a Clachan.

***Design and layout:***

The proposed 2-storey house (c.242sq.m.) on a c.0.53ha site would have a contemporary design with a traditional influence. It would have an overall ridge height of 8.8m and FFL of c.40.25. The nearby existing and permitted houses have a FFL of 36.33m and 44m respectively. The proposed garage (c.45sq.m.) would have

a ridge height of c.5.07m. Although the footprint would be similar to other houses in the wider area, it would occupy an elevated position to the rear of an existing houses which is located at a lower level within a gently sloping site, and I would concur with the Planning Officer that the maximum ridge height should be restricted to 8.5m in the interests of visual amenity.

***Conclusion:***

Having regard to the foregoing, I am not satisfied that the proposed development would not have any adverse impact on the rural character of the area, it would constitute haphazard backland development, and it would set an undesirable precedent for the further encroachment of suburban style housing into the rural area.

**8.1.3. Residential amenity**

The proposed house would provide for an acceptable level of residential amenity in terms of accommodation and private open space, and it would not overlook or overshadow any neighbouring houses, existing or permitted, given the substantial setbacks from the site boundaries and nearest properties.

I note the concerns raised by the Appellant in relation to visual impacts and views, and that the lands are covered by a scenic amenity designation. However, the site boundaries are defined by mature trees and hedgerows which would be augmented by additional planting as per the applicant's landscape proposal. I am satisfied that the proposed development would not have significant impact on the visual amenities of the occupants of the neighbouring permitted house.

***Conclusion:***

Having regard to the foregoing and based on the information provided, I am satisfied that the proposed development would not have any adverse impacts on residential amenity for future occupants or neighbouring houses.

**8.1.4. Site drainage**

The appeal site and adjoining fields slope up moderately from the local road in a NW direction towards a relatively flat plateau where the proposed house and wastewater treatment system would be located, with a linear wooded area beyond. The site

boundaries are defined by mature trees, hedges and drainage ditches, and there are open drainage ditches along the local road. I noted the presence of several clumps of reeds within the appeal site lands which may indicate a drainage issue, however the land felt firm underfoot and there was no evidence of waterlogging or ponding. (Note that I carried out my site inspection on the day after very heavy and prolonged rainfall).

### ***Wastewater treatment:***

In relation to the wastewater treatment arrangements, I note that the applicant submitted a Site Characterisation Assessment Report which contains a number of anomalies. The public notices and planning application form state that it is proposed to install a septic tank system, however the Site Layout plan indicates that a polishing filter would also be provided, and this is reflected in the Site Characterisation Assessment Report and the Planning Officer's report. I also note that this Report described the site as: - having site boundaries that comprise post and wire fencing on all 4 x sides (the boundaries comprise mature trees and hedgerows on 3 x sides as also indicated on the Report's site layout plan & photographs); no visible drainage ditches (present along the site boundaries); the Groundwater Body is named as Drongawn Lough (it is Lough Swilly [as per EPA & GSI maps]); and the soil type as Till derived from metamorphic rocks (this is the subsoil [as per Teagasc & GSI]).

Notwithstanding the foregoing, the Report confirms a T-Test result of 29.81 min/25mm which indicates that subsoil is suitable to treat and dispose of wastewater by means of a secondary or tertiary treatment system, but not by a septic tank. Based on this information I am satisfied a secondary treatment system would dispose of wastewater from the proposed 4-bedroom house (PE 6), subject to standard conditions.

However, taking account of the anomalies outlined above, and if the Commission is satisfied with all other aspects of the development, it may wish to seek clarity by way of a further information request or by means of a planning condition. Alternatively, it may wish to refuse planning permission on the grounds that the proposal would be prejudicial to public health, based on the inadequacy of the information provided in

relation to the applicant's description of the site and environs, which gives rise to a lack of certainty that wastewater can be disposed of in a satisfactory manner.

***Surface water drainage:***

In relation to surface and storm water drainage, the method of collection and point of discharge are outlined on the Site Layout plan. I note that surface water would connect to an existing open roadside drain located along the SE site boundary. This is a satisfactory arrangement which would not give rise to a significant flood risk down gradient along the local road or adjoining lands.

***Water supply:***

In relation to water supply, the applicant proposes to make a new connection to the public water mains. The standard Irish Water capacity and connection arrangements should be agreed.

***Previous applications:***

I note that the Board refused O/L permission for 2 x houses on the appeal site under PL05D. 209361 in 2005 for 4 x reasons, which related to site suitability in relation to wastewater treatment and public health, and inadequate surface water drainage arrangements and associated flood risk. However subsequent decisions to refuse permission for a house on this site did not cite these reasons.

***Conclusion:***

Having regard to the foregoing and based on the information provided, I am not satisfied that the proposed wastewater treatment arrangements would not have an adverse impact on the environment and public health. However, I am satisfied that the proposed surface water run-off arrangements are acceptable and the proposed development would not give rise to a flood risk at adjoining lands.

**8.1.5. Vehicular access**

Vehicular access to the proposed development would be off the local road to the SE (L-1134-2) and via a narrow avenue along the E site boundary. The proposed sightlines of 160m in either direction along the local road are acceptable and adequate off-street car parking would be provided. I note that two existing houses

and one permitted house have access to the local road in the vicinity of the proposed entrance, and that there is a substantial distance to other existing residential access points to the E and W of the site. I am satisfied that the proposed arrangements would not give rise to a traffic hazard or endanger the safety of other road users.

I note the concerns raised by the Appellant in relation to the possibility of the vision splays crossing his lands, however this is a civil and not a planning matter, and that the grant of planning permission does not convey any development rights on lands that are not owned by the applicant without the landowner's consent.

***Previous applications:***

I note that the Board refused O/L permission for 2 x houses on the appeal site under PL05D. 209361 in 2005 for 4 x reasons, one of which related to traffic generation along a substandard local road. However subsequent decisions to refuse permission for a house on this site did not cite this reason. Furthermore, several houses in the wider area which have access on to this local road have been granted planning permission since 2005, including most recently on adjoining site under 23/51575.

***Conclusion:***

Having regard to the foregoing and based on the information provided, I am satisfied that the proposed access arrangements would not have any adverse impacts on local road in terms of road safety or congestion.

**8.1.6. Other issues**

***Consultations:*** standard procedures in relation to public notices were followed.

**9.0 AA Screening**

The proposed development is located within c.550m of the W boundaries of the Lough Swilly SAC and SPA which are designated for 5 x habitats and 2 x species (incl. otter), and several species of water bird, respectively. There is no direct aquatic connection between the appeal site and the European sites and therefore no aquatic pathway for construction related materials to reach the European sites, there are a number of local roads in the intervening area, and there is no evidence that the lands

are utilised by commuting otters or any of the waterbird species for which the Lough Swilly sites have been designated.

Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, in accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Lough Swilly European Sites in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

## **10.0 Recommendation**

- 10.1. Having regard to the foregoing, I recommend that planning permission be refused for the proposed development.

## 11.0 Reasons and Considerations

1. The proposed development would be located within a rural area that is designated as being “Under Strong Urban Influence” and within an “Area of High Scenic Amenity” in the County Donegal Development Plan, 2024 to 2030, and Policies RH-P-1, RH-P-9 and L-P-2 apply. The proposed development, which would occupy an elevated backland location to the rear of an existing house, and at a distance from the established cluster of dwelling houses to the southwest at Castlewray, would give rise to unsustainable haphazard development. Furthermore, it would set an undesirable precedent for the expansion of higher density suburban style houses with a spatial pattern of suburban development into the intervening rural area. The proposed development would, therefore, be contrary to Policy RH-P-9 which seeks to avoid the expansion of a suburban pattern of development in the rural area, and development that would constitute haphazard development because of its positioning, siting or location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the anomalies in the Site Characterisation Assessment Report in relation to the description of the site of the proposed development and the type of wastewater treatment system proposed to be installed, I am not satisfied, on the basis of the information provided, that wastewater from the proposed development can be treated in a satisfactory manner prior to discharge to groundwater. The proposed development would be prejudicial to public health, which would, therefore, 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.

---

Karla McBride  
Planning Inspector

20<sup>th</sup> June 2025



## Form 1 - EIA Pre-Screening

### No EIAR Submitted

<b>Case Reference</b>	<b>ABP-322251-25</b>
<b>Proposed Development Summary</b>	Dwelling house with domestic garage and septic tank including all other associated site development works.
<b>Development Address</b>	Castlewray, Letterkenny, 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 development under Article 8	

of the Roads Regulations, 1994. <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	<b>State the Class and state the relevant threshold</b>
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	<b>State the Class and state the relevant threshold</b>  Class 10 Infrastructure projects  (b) (i) Construction of more than 500 dwelling units.

<b>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)?</b>	
<b>Yes</b> <input type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b>
<b>No</b> <input type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

**Inspector: Karla McBride**

**Date: 20<sup>th</sup> June 2025**

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	<b>ABP-322251-25</b>
<b>Proposed Development Summary</b>	Dwelling house with domestic garage and septic tank including all other associated site development works.
<b>Development Address</b>	Castlewray, Letterkenny, 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).	<b>Briefly comment on the key characteristics of the development, having regard to the criteria listed.</b>  Standard detached house (c.242sq.m.). Three other existing & permitted houses in vicinity.
<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).	<b>Briefly comment on the location of the development, having regard to the criteria listed</b>  Rural area & agricultural land.  Area of High scenic Amenity.  Located within c.550m of Lough Swilly SAC, SPA & pNHA.  No natural or built heritage features in the surrounding area.
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	<b>Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.</b>  None.

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.	
There is a real likelihood of significant effects on the environment.	

**Inspector:** Karla McBride **Date:** 20<sup>th</sup> June 2025

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

## Template 2: Standard AA Screening Determination Template

### Test for likely significant effects

(For use in all cases beyond de minimis criteria)

Screening for Appropriate Assessment Test for likely significant effects				
<b>Step 1: Description of the project and local site characteristics</b> Dwelling house with domestic garage and wastewater treatment system site development works. Rural area, agricultural field, moderate slope, several drainage ditches in vicinity.				
<b>Brief description of project</b>		Dwelling house (c.242sq.m) with domestic garage and secondary WWTS, including all other associated site development works.		
<b>Brief description of development site characteristics and potential impact mechanisms</b>		Dwelling house (c.242sq.m) Domestic garage (c.45sq.m) Septic tank / secondary WWTS with polishing filter (6PE) Site Assessment Characterization report submitted. Moderately sloping agricultural field bound by mature trees & hedges. Lough Swilly SAC & SPA c.550m to E. No aquatic connection between site & SAC / SPA		
<b>Screening report</b>		N		
<b>Natura Impact Statement</b>		N		
<b>Relevant submissions</b>		None		
<div></div>				
<b>Step 2. Identification of relevant European sites using the Source-pathway-receptor model</b>				
European Site (code)	Qualifying interests <sup>1</sup> Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup> Y/N
Lough Swilly SPA (004075)	<a href="#">Lough Swilly SPA   National Parks &amp; Wildlife Service</a>	0.55km	None	No
Lough Swilly SAC (002287)	<a href="#">Lough Swilly SAC   National Parks &amp; Wildlife Service</a>	0.55km	None	No

<sup>1</sup> Summary description / <b>cross reference to NPWS website</b> is acceptable at this stage in the report <sup>2</sup> Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species <sup>3</sup> if no connections: N				
<b>Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites</b>  [From the AA Screening Report or the Inspector's own assessment if no Screening Report submitted, complete the following table where European sites need further consideration taking the following into account:  (a) Identify potential direct or indirect impacts (if any) arising from the project alone that could have an effect on the European Site(s) taking into account the size and scale of the proposed development and all relevant stages of the project (See Appendix 9 in Advice note 1A). (b) Are there any design or standard practice measures proposed that would reduce the risk of impacts to surface water, wastewater etc. that would be implemented regardless of proximity to a European Site? (c) Identify possible significant effects on the European sites in view of the conservation objectives (alone <u>or</u> in combination with other plans and projects)				
<b>AA Screening matrix</b>				
<b>Site name Qualifying interests</b>	<b>Possibility of significant effects (alone) in view of the conservation objectives of the site*</b>			
	<b>Impacts</b>	<b>Effects</b>		
<b>Site 1: Name (code)</b>  <b>Lough Swilly SPA (004075)</b>  <b>QI list:</b>  Great Crested Grebe (Podiceps cristatus) [A005] Grey Heron (Ardea cinerea) [A028] Whooper Swan (Cygnus cygnus) [A038] Greylag Goose (Anser anser) [A043] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052]	Direct: None  Indirect: None (no connections).	None.		

Mallard (Anas platyrhynchos) [A053] Scaup (Aythya marila) [A062] Goldeneye (Bucephala clangula) [A067] Red-breasted Merganser (Mergus serrator) [A069] Coot (Fulica atra) [A125] Oystercatcher (Haematopus ostralegus) [A130] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Greenshank (Tringa nebularia) [A164] Black-headed Gull (Chroicocephalus ridibundus) [A179] Common Gull (Larus canus) [A182] Common Tern (Sterna hirundo) [A193] Greenland White-fronted Goose (Anser albifrons flavirostris) [A395] Wigeon (Mareca penelope) [A855] Shoveler (Spatula clypeata) [A857] Sandwich Tern (Thalasseus sandvicensis) [A863] Wetland and Waterbirds [A999]		
	<b>Likelihood of significant effects from proposed development (alone):</b>  <b>No</b>	
	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</b>  <b>No</b>	

	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	No	
	Impacts	Effects
Site 2: Name (code)  Lough Swilly SAC (002287)  QI list  Estuaries [1130] Coastal lagoons [1150] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Phocoena phocoena (Harbour Porpoise) [1351] Lutra lutra (Otter) [1355]	Direct: None  Indirect: None (no connections).	None
	Likelihood of significant effects from proposed development (alone):  No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?  No & None on the restoration of habitats.	
* Where a restore objective applies it is necessary to consider whether the project might compromise the objective of restoration or make restoration more difficult.		
Further Commentary / discussion (only where necessary)		



#### **Step 4 Conclude if the proposed development could result in likely significant effects on a European site**

I conclude that the proposed development (alone) would not result in likely significant effects on the Lough Swilly SPA and SAC. The proposed development would have no likely significant effect in combination with other plans and projects on any European sites. No further assessment is required for the project.

No mitigation measures are required to come to these conclusions.

#### **Screening Determination**

##### **Finding of no likely significant effects**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Lough Swilly European Sites in view of the conservation objectives of these sites and is therefore excluded from further consideration.

Appropriate Assessment is not required.

This determination is based on:

- Nature & scale of works
- Location-distance from nearest European site and lack of connections

WFD IMPACT ASSESSMENT STAGE 1: SCREENING						
Step 1: Nature of the Project, the Site and Locality						
An Bord Pleanála ref. no.	322251	Address: Castlewray		Letterkenny, Co. Donegal		
Description of project		Dwelling house, garage & septic tank				
Brief site description, relevant to WFD Screening,		<p>Site is located within a moderately elevated area with relatively freely draining soils, located in a rural location.</p> <p>The site is surrounded by well drained grassland with several drainage ditches.</p> <p>There is a watercourse located c.200 metres N of the site and Lough Swilly is located c. 550m to the E.</p>				
Proposed surface water details		Surface water will connect to an existing open roadside drain located along the SE site boundary.				
Proposed water supply source & available capacity		Connection to public mains supply.				
Proposed wastewater treatment system & available capacity, other issues		<p>4-bedroom house (PE 6)</p> <p>Septic tank system proposed (secondary treatment system assessed).</p>				
Others?		Not applicable				
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk,	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)

				review, not at risk		
River Waterbody	c.400m N	Knockybrin Stream _ 010	Moderate	Review	Hydromorphology, Agriculture	Not hydrologically connected to surface watercourse.
Groundwater waterbody	Underlying site	Lough Swilly NW_G_059	Good	Not at risk	Agriculture Hydromorphology Urban	Free draining soil conditions.

**Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.**

**CONSTRUCTION PHASE**

No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no)  Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Surface	Knockybrin Stream _ 010	None	None	None	No	Screened out
2.	Ground	Lough Swilly NW_G_059	Drainage	Hydrocarbon Spillages	Standard Construction	No	Screened out

					Measures / Conditions		
<b>OPERATIONAL PHASE</b>							
3.	Surface	010	None	None	None	No	Screened out
4.	Ground	059	None	None	None	No	Screened out
<b>DECOMMISSIONING PHASE</b>							
5.	NA						