



An
Coimisiún
Pleanála

Inspector's Report

ACP-323239-25

Development	Construction of a dwelling and all other associated site development works.
Location	Ballintemple, Falcarragh, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2560528
Applicant	Eoghain Ó Gallcháoir
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Patrick Sadlier
Observers	None
Date of Site Inspection	22 nd September 2025
Inspector	Jim Egan

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1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.230ha, is located on the northeast side of the R256 regional road, in the rural townland of Ballintemple, approximately 1.5km southeast of town centre of Falcarragh, Co. Donegal.
- 1.2. The wider area is characterised by farmland and extensive ribbon development. The appeal site is bounded to the east, north and west by one-off dwellings and to the south by the R256. The front elevation of the dwelling / cottage to the east, being the appellant's dwelling, faces north-west across the appeal site and is flanked to front and rear by existing laneways.
- 1.3. The boundary of the appeal site to the west, north and northwest comprises mature hedgerow, whilst the boundary to the appellant's dwelling to the east is open with no fence / hedge line.
- 1.4. The appeal site has a frontage of c. 27m to the R256 and comprises grassed land with no built structures.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a single storey three-bedroom detached dwelling (c. 146sqm), with a part pitched, part mono-pitched roof. The dwelling would be setback beyond the rear / northern building lines of adjacent dwellings, and c. 42m from the R256.
- 2.2. The proposal also includes the installation of a wastewater treatment system with polishing filter, surface water to discharge to an existing land drain and connection to mains water supply.
- 2.3. The dwelling would be accessed via an existing laneway that runs alongside the southeastern side boundary of the property and passing immediately in front of the existing dwelling to the east of the site. The submitted site location map identifies a right of way on this laneway.
- 2.4. Further information submitted on the 23rd June 2025 included a revised site layout plan showing a change to the proposed access arrangement.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 17 no. conditions. Conditions of note are Conditions 2 and 3 which relate to occupancy restrictions, Condition 4 relates to sight lines, Conditions 5, 6 and 14 relate to boundary treatment, Condition 16 relates to wastewater treatment, and Condition 17 requires the payment of a development contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planner's report dated 27th May 2025 makes the following main points:

- It is considered that the applicant has not demonstrated a social or economic need for a dwelling at this location. However, in accordance with Donegal County Council practice and procedures, the Planning Authority is satisfied that the principle of development is acceptable based on the submitted bona fide letter from a county councillor.
- Siting and design of the dwelling is acceptable.
- No concerns regarding third party amenities.
- The proposed development would result in an increase in traffic using the right of way, presenting a safety hazard to residents in the cottage.
- Recommended that 1 no. item of further information be sought, as follows:
 1. Applicant to submit a revised site layout plan (drawn to an appropriate scale) that provides for an alternative means of vehicular access to the site that would avoid vehicles travelling in front of the existing cottage located to the south-east of the subject site

A response to the request for further information was received on the 4th June 2025.

A second planner's report dated 8th July 2025 recommended a grant of planning permission subject to 17 no. conditions.

3.2.2. Other Technical Reports

Area Roads Engineer – report received on the 14th April 2025 recommends that storm water is checked. Further correspondence on file dated 22nd May 2025 advised that the roads section would not be in favour of a new entrance onto the R256.

3.2.3. Prescribed Bodies

- None.

3.3. Third Party Observations

1 no. observation was received during the initial statutory consultation period from Patrick Sadlier, part owner of the existing dwelling that adjoins the appeal site to the east. A further observation was made by Patrick Sadlier in respect of the significant further information received by the planning authority. Issues raised generally reflect the content of the third-party appeal which are detailed in Section 6.0 of my report.

4.0 Planning History

4.1. Appeal Site

P.A. Ref. 2460927 – refers to a February 2025 decision to refuse permission to Eoghain Ó Gallchóir for a dwelling and septic tank. The reason for refusal was as follows:

1. It is a policy of the Council -Policy RH-P-9(b) (iii)- (Location, Siting & Design and Other Detailed Planning Considerations), County Donegal Development Plan, 2024-30 refers, that 'Proposals for individual dwellings shall also be assessed against the following criteria:
 - the site access/egress being configured in a manner that does not constitute a hazard to road users or significantly scar the landscape;'

Having regard to the submitted layout arrangements in particular to (i) the access/egress arrangements submitted in response to the Further Information and Further Information Matters Arising requests whereby the revised proposed access/ROW would traverse across third party lands to the North East of the site (folio DL 44346F refers) for which consent has not been provided (ii) this

revised proposed access/ROW would traverse over an existing access/ROW adjoining and extending beyond the site prior to connecting with the revised access arrangements and (iii) to the absence of required third-party consents for the achievement of requisite vision lines along the regional road, it is considered that the access arrangements of the development as proposed, would lead to the confusion to road users as a result of dangerous traffic cross-over movements into and out of the site, resulting in a haphazard form of development, for which adequate consent has not been demonstrated. Accordingly, to permit the development as proposed would be contrary to the aforementioned policy of the Plan resulting in the endangerment of public safety by reason of a traffic hazard and would thereby be contrary to the proper planning and sustainable development of the area.

4.2. Surrounding Area

Planning records for dwellings and holiday homes on land north of the appeal site is summarised below. Of note is that the existing dwelling adjoining the appeal site to the north was built on foot of P.A. Ref. 02/3107 and P.A. Ref. 04/3358, both permissions granted to Ownie Gallagher. The existing dwelling further north was built on foot of P.A. Ref. 04/3541, granted to Colleen Gallagher. There are also extensive planning records for the land further north again, all applications refused, with the applicant's name varying between Eoghan O'Gallachoir, Owenie Gallagher and Owen Gallagher.

Backland site adjoining the appeal site to the north

P.A. Ref. 01/2851 – refers to a 2002 grant of outline planning permission to Ownie Gallagher on a backland site immediately north of the current appeal site. Access road shown east side of the existing cottage.

P.A. Ref. 02/3107 – refers to a 2002 grant of permission to Ownie Gallagher for a dwelling on the same site as per P.A. Ref. 01/2851. Access road shown east side of the existing cottage.

P.A. Ref. 04/3358 – refers to a 2004 grant of retention permission to Ownie Gallagher for alterations to as constructed dwelling. New entrance and access road shown west side of the existing cottage.

Backland site north of dwelling site P.A. Ref. 04/3358

P.A. Ref. 03/2466 – refers to a 2003 decision to refuse permission to Owen Gallagher for a dwelling.

P.A. Ref. 04/3541 – refers to a 2004 grant of permission to Colleen Gallagher for new dwelling (site layout plan refers to ref. 043358 on the adjoining site and to Ownie Gallagher as being the applicant's brother). Site layout plan shows access via 'existing access road' running along the front / western side of the existing cottage.

Backland site north of dwelling site P.A. Ref. 04/3541

P.A. Ref. 05/30874 – refers to a February 2006 decision to refuse permission to Eoghan O'Gallachoir for a 'teach conaithe' (dwelling house).

P.A. Ref. 06/30826 – refers to an August 2006 decision to refuse permission to Eoghan O'Gallachoir for a 'teach conaithe' (dwelling house).

P.A. Ref. 06/31725 – refers to a 2007 decision to refuse permission to Owenie Gallagher for 2 no. holiday homes.

P.A. Ref. 07/31140 – refers to a 2007 decision to refuse permission to Owen Gallagher for a holiday home.

P.A. Ref. 08/30209 / ACP Ref. PL05B.232086 – refers to a 2009 decision to refuse permission to Owen Gallagher for the construction of a holiday home.

5.0 Policy Context

5.1. Donegal County Development Plan 2024 – 2030

The Donegal CDP 2024 – 2030 took effect on the 26th June 2024 except for those parts of the Plan which are subject to a Draft Ministerial Direction. The Draft Ministerial Direction was issued on the 26th June 2024 and relates to land use zonings in a number of settlements and separately to text relating to accesses onto national roads. I am satisfied that the Draft Ministerial Direction has no direct implications for the appeal site.

I also note that proposed Variation No. 1 of the CDP was at pre-draft public consultation stage in February 2025, the provisions of which do not affect the site.

The subject site is located in a rural area identified on CDP Map 6.3.1 as being an 'Area Under Strong Holiday Home Influence'. The site is also within an Area of High Scenic Amenity (CDP Map 11.1).

Chapter 6 - Housing

- RH-O-1** To ensure that new residential development in rural areas provides for genuine rural need.
- H-O-2** To protect rural 'Areas Under Strong Urban Influence', rural 'Areas Under Strong Holiday Home Influence', and rural areas immediately outside towns from intensive levels of unsustainable urban/suburban residential development.
- RH-O-4** To ensure that rural housing is located, designed and constructed in a manner that does not detract from the character or quality of the receiving landscape having particular regard to Map 11.1: 'Scenic Amenity' of this Plan.
- RH-P-2** To consider proposals for new one-off rural housing within 'Areas Under Strong Holiday Home 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 holiday home 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 Policies 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.

RH-P-9

- a. Proposals for individual dwellings (including refurbishment, replacement and/or extension projects) shall be sited and designed in a manner that is sensitive to the integrity and character of rural areas as identified in Map 11.1: 'Scenic Amenity' of this Plan, and that enables the development to be assimilated into the receiving landscape. Proposals shall be subject to the application of best practice in relation to the siting, location and design of rural housing as set out in Donegal County Council's 'Rural Housing Location, Siting and Design Guide'. In applying these principles, the Council will be guided by the following considerations:-
- i. A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in the rural area;
 - ii. A proposed dwelling shall not create or add to ribbon development (see definitions);
 - iii. A proposed dwelling shall not result in a development which by its positioning, siting or location would be detrimental to the amenity of the area or of other rural dwellers or would constitute haphazard development;
 - iv. A proposed dwelling will be unacceptable where it is prominent in the landscape;
 - v. A proposed new dwelling will be unacceptable where it fails to blend with the landform, existing trees or vegetation, buildings, slopes or other natural features which can help its integration. Proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. The extent of excavation that may be considered will depend upon the circumstances of the case, including the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings.

- b. Proposals for individual dwellings shall also be assessed against the following criteria:
- i. the need to avoid any adverse impact on Natura 2000 sites or other designated habitats of conservation importance, prospects or views including views covered by Policy L-P-8;
 - ii. the need to avoid any negative impacts on protected areas defined by the River Basin District plan in place at the time;
 - iii. the site access/egress being configured in a manner that does not constitute a hazard to road users or significantly scar the landscape;
 - iv. the safe and efficient disposal of effluent and surface waters in a manner that does not pose a risk to public health and accords with Environmental Protection Agency codes of practice;
 - v. Compliance with the flood risk management policies of this Plan;
- c. In the event of a grant of permission the Council will attach an Occupancy condition which may require the completion of a legal agreement under S47 of the Planning and Development Act 2000 (as amended).

Definitions:

6. Ribbon Development:

In general, 5 houses on any one side of 250 metres road frontage. Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:

- The type of rural area and circumstances of the applicant.
- The degree to which the proposal might be considered infill development.
- The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.
- The existence of physical and geographical breaks, inclusive of topographical undulations, which may act as a means of extending roadside development in appropriate cases.

- The degree to which the proposal would form a small cluster with a number of houses or other buildings with adjoining curtilages, this may incorporate backland sites in appropriate circumstances.

The Planning Authority shall take a balanced and reasonable view of the interpretation of the above criteria taking account of local circumstances, the context of the site, including the planning history of the area and development pressures.

7. Holiday Home: A secondary place of residence that does not form a principal and main residence. This excludes second homes occupied on an intermittent basis by persons who are returning emigrants.

9. Economic Need and Social Need

Economic Need

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

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

Social Need

Persons who are Intrinsic part of the Rural Community including:

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

Chapter 8 - Infrastructure

WW-O-1 To maintain, improve and enhance the quality of surface and ground waters as appropriate in accordance with the requirements of:

- a. The EU Water Framework Directive including implementing the Programme of Measures contained with the River Basin Management Plan 2022-2027 and any subsequent plan.
- b. The European Communities (Surface Water) Regulations 2009.

- c. The European Communities (Ground Water) Regulations 2010.

W-P-2

Ensure that new developments:

- a. do not have an adverse impact on surface and ground water quality, drinking water supplies, Bathing Waters and aquatic ecology (including Water dependent qualifying interests within Natura 2000 sites); and
- b. do not hinder the achievement of, and are not contrary to:
 - i. The objectives of the EU Water Framework Directive.
 - ii. EU Habitats and Bird Directives.
 - iii. The associated Programme of Measures in the River Basin Management Plan 2022-2027 including any associated Water Protection or Restoration Programmes.
 - iv. Drinking Water Safety Plan.
 - v. The Guidelines on the Protection of Fisheries During Construction Works In and Adjacent To Waters (IFI, 2016)

WW-P-6

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

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

Chapter 11 – Natural, Built and Archaeological Heritage

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.

Chapter 16 – Technical Standards

Visibility Splays

5.2. Natural Heritage Designations

5.2.1. The site is not located within or adjacent to any designated sites. The closest European Sites are as follows:

- Falcarragh to Meenlaragh SPA (Site Code: 004149), c. 1.9km northwest of the site,
- Ballyness Bay SAC (Site Code 001090), c. 2km northwest of the site.

5.2.2. The Ballyness Bay pNHA (Site Code 001090) is located c. 2km northwest of the site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal has been received from Patrick Sadlier against the decision of the Planning Authority to grant permission. The appellant states that he is acting on behalf of five fellow homeowners of the adjoining cottage. The appellant has attached the observations that he made to the planning authority and refers to same as being relevant. Therefore, the full grounds of appeal can be summarised as follows:

Issues raised in the initial observation made to the planning authority:

- Road safety concerns with regards the location and alignment of the right of way laneway in the context of the front of the existing dwelling.

- Impacts of construction traffic passing by the front of the dwelling in terms of pedestrian safety and structural integrity of the dwelling, being over 100 years old and constructed of traditional building materials.
- Impact on parking for the appellant.
- Asks for clarify on the legal right of the applicant to use the right of way to access the new dwelling.
- No consultation from the applicant.

Issues raised in the observation made in respect of further information received:

- Revised access road traverses over appellant's landholding, which was subject of a deed of rectification in 2023. The applicant has no consent to access this ground.
- Road and traffic safety concerns with regards accessing off the R256.
- Proposal would interfere with existing water and electricity supply to the appellant's property.

Grounds of appeal

- Proposed dwelling and access arrangement will fundamentally alter the character of the surrounding landscape which would diminish the visual and environmental quality of the area and, as a result, impact on the value of the appellant's property. The access arrangement to the proposed dwelling, as revised at further information stage, will encroach on the appellant's property and, as a result, the proposal will reduce the 'kerb appeal' of the appellant's property.
- Heritage assets and their settings should be preserved. The proposal will erode the unique architectural and environmental heritage that defines the area.
- The proposal, including additional traffic close to the cottage, will impact negatively on the mental and physical wellbeing of the residents of the cottage.

6.2. Applicant Response

None received.

6.3. Planning Authority Response

A response, received on the 1st September 2025, acknowledges the contents of the appeal, considers that the majority of issues raised by the appellant were addressed in planner's reports, and requests that An Coimisiún upholds the decision to grant permission.

6.4. Observations

- None.

7.0 Assessment

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

- Principle of Development and compliance with the rural housing policy
- Visual Impact
- Residential Amenity
- Access and Right of Way
- Other Matters

The issues of EIA, Appropriate Assessment and Water Framework Directive screening also need to be addressed.

7.1. Principle of Development and compliance with the rural housing policy

- 7.1.1. The application relates to the construction of a dwelling on a site within an area designated under the Donegal County Development Plan 2024-2030 (CDP) as an 'Area Under Strong Holiday Home Influence'.
- 7.1.2. Policy RH-P-2 of the CDP allows considerations for proposals for new one-off rural houses within 'Areas Under Strong Holiday Home Influence' where the applicant can provide evidence of a demonstrable economic or social need to live in these areas. The demonstrable economic or social need criteria is set out under 'Definitions'

at the end of CDP Chapter 6. It is also stated within the wording of the policy that the 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. In this context, 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.

- 7.1.3. The CDP in this regard sets out that economic need relates to persons working full-time or part-time in rural areas, whilst social need constitutes persons who are an intrinsic part of the rural community including (i) farmers, their sons, and daughters and or any persons taking over the ownership and running of farms; (ii) people who have lived most of their lives in rural areas; or (iii) returning emigrants who lived for substantial parts of their lives in rural areas.
- 7.1.4. Policy RH-P-2 appears to lower the bar somewhat with regards social need compliance by providing for the consideration of evidence that the applicant, or their parents or grandparents, have resided at some time within the area under strong holiday home influence in the vicinity of the application site for a period of at least 7 years.
- 7.1.5. Donegal County Council's Rural Housing Application Form, which is included in Part B of the planning application form, provides a tabular list of recommended documentary evidence to be submitted with an application for a rural dwelling. A statement in the application form strongly advises applicants to provide multiple, comprehensive and a complete range of documentary evidence in support of their application, and which specifically and evidentially demonstrates their circumstances of housing need within the scope and categories of the relevant rural housing policy and without gaps.
- 7.1.6. In terms of housing need, the applicant states that he has owned the site for years and needs to build a permanent house for himself to be close to his family and also close to Letterkenny for work. With regards documentary evidence, the applicant has relied solely on a Bona Fide letter from an elected member of Donegal County Council, which outlines that the applicant was born and raised in the area and attended local schools, and that the family has lived in the townland for generations. The letter further states

that it is the councillor's understanding that the applicant complies with Policy RH-P-2 of the CDP. No other evidence or documentation has been provided to corroborate the applicant's housing need.

- 7.1.7. The planning authority acknowledged the lack of documentary evidence submitted however noted that in accordance with the local authority's practice and procedures, the Planning Authority is satisfied that the principle of development is acceptable based on the submitted bona fide letter.
- 7.1.8. In my view, the letter of bona fide and the applicant's brief statement in the Rural Housing Application Form do not sufficiently demonstrate a housing need at this location.
- 7.1.9. On the basis of the above, in the absence of sufficient documentary evidence, I consider that the applicant has failed to demonstrate a housing need required under CDP Policy RH-P-2. I recommend that the application be refused on this basis.
- 7.1.10. With respect to the latter part of policy RH-P-2, namely that the policy does not apply where an individual already has the benefit of a planning permission for a dwelling on another site, I note that under the Rural Housing Application Form, the applicant indicates that he never been previously granted planning permission for a dwelling on another site. In this regard, I would direct the attention of An Coimisiún to the planning history section of my report, which summaries a somewhat intricate record of planning applications made on the land north of the appeal site. In this regard, there are similarities in the applicant name, both English and Irish variations, across the wider landownership at this location. I note the name Owenie Gallagher on a 2002 grant of permission for a dwelling, that was subsequently built, on a site immediately north of the appeal site and further noting the applicant names of Eoghan O'Gallachoir, Owenie Gallagher and Owen Gallagher used across a site further north, all refused permission for dwellings and holiday homes. Under the current application, the applicant's name is Eoghain O'Gallchoir, whilst I note that the submitted Bona Fida letter from an elected member of Donegal County Council and the submitted Site Suitability Assessment refer to the applicant's name as Owen Gallagher. I also note that a submitted letter of consent with respect to the right of way is signed by John Francis Gallagher as owner of the larger landholding to the north, stating that he is the applicant's father.

7.1.11. As such and of most relevance to this appeal is that there appears to be an association between the applicant and a grant of planning permission in 2002 for a dwelling on the site immediately north of the appeal site, with subsequent modifications to the as-built dwelling granted under a 2004 retention application (P.A. Ref. 02/3107 and P.A. Ref. 04/3358 refers). If this is the case, and in the absence of demonstrated exceptional circumstances, a grant of permission for a dwelling under the current application would be contrary to Policy RH-P-2. This is a new issue and An Coimisiún may wish to seek the views of relevant parties however having regard to the substantive reason for refusal set out above with respect to a basic social or economic need, it may not be considered necessary to pursue the matter.

7.2. Visual Impact

7.2.1. Grounds of appeal include that the proposed dwelling and access arrangement will fundamentally alter the character of the surrounding landscape which would diminish the visual and environmental quality of the area and, as a result, would reduce the 'kerb appeal' of the appellant's property, which in turn would impact negatively on the market value of the appellant's property. With regards visual impact, the appellant also contends that heritage assets and their settings should be preserved.

7.2.2. As outlined earlier in this report, the subject site is located in a rural area identified as being an '*Area Under Strong Holiday Home Influence*' and the site is also within an *Area of High Scenic Amenity*.

7.2.3. Consideration of applications for dwellings in the rural area including sites in *Areas Under Strong Holiday Home Influence* includes assessment against the provisions of CDP Policy RH-P-9 which states that proposals shall be sited and designed in a manner that is sensitive to the integrity and character of rural areas and that enables the development to be assimilated into the receiving landscape. In terms of landscape value, the County Development Plan sets out the following classifications:

1. Areas of Especially High Scenic Amenity
2. Areas of High Scenic Amenity
3. Areas of Moderate Scenic Amenity

7.2.4. The site is contained within an Area of High Scenic Amenity. Objective L-O-1 of the CDP seeks to protect, manage and conserve the character, quality and value of the Donegal

landscape, whilst Policy L-P-2 relates to the landscape classifications of 'High Scenic Amenity' and 'Moderate Scenic Amenity', stating that 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.

- 7.2.5. Section 11.2.2 of the County Development Plan outlines that Areas of High Scenic Amenity have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape.
- 7.2.6. The appellant's dwelling, whilst not included on the local authority's register of protected structures has, in my view, the characteristics of a vernacular cottage. CDP Objective AH-O-1 seeks to conserve, manage, protect and enhance the architectural heritage of Donegal including vernacular building stock and the character and setting of such structures.
- 7.2.7. The site and surrounding environs is characterised by a relatively flat topography, resulting in no long-distance views to or from the site. The proposed dwelling is set back c. 42m from the public road and behind the rear building lines of the adjoining dwelling to the west and in the case of the appellant's dwelling, behind the northern side building line. The proposed dwelling has a floor area of c. 146sq.m and, in my view, is of modest height and scale. The proposed access arrangement, as revised at further information stage, would comprise the use of the existing road entrance and laneway before crossing into the application site. Existing boundary vegetation would be retained. I note Condition 14 on the planning authority's decision which requires native planting to all site boundaries.
- 7.2.8. I consider that by reason of the height and scale of the proposed dwelling, along with the setback from the road and relationship with adjoining dwellings, the proposed development will integrate sufficiently within the surrounding landscape. I am therefore satisfied that the development will not result in an adverse impact on the visual or scenic amenity of the area, consistent with CDP Objective L-O-1 and Policy L-P-2, nor would it result in an adverse impact on the appellant's dwelling or the setting of same in the context of its vernacular qualities, consistent with CDP Objective AH-O-1.

Property Values

- 7.2.9. I note the concerns raised in the grounds of appeal in respect of the devaluation of the neighbouring property. 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.

7.3. Residential Amenity

- 7.3.1. The appellant submits that by reason of additional traffic and construction related activities, the proposal would impact on their quality of life including physical and mental health. The Planning Authority concluded that the proposal would not cause a loss of amenity to adjacent residential properties.
- 7.3.2. The proposal is for a three-bedroom detached dwelling. Considering the nature of the proposed access arrangement, as revised at further information stage, together with the imposition of Condition 14 as per the planning authority's decision, which requires native planting to all site boundaries, the operational stage of the proposed development, in my view, is unlikely to cause an adverse loss of amenity to adjoining residents.
- 7.3.3. In terms of the construction phase, noise, vibration, and light impacts are likely during the site development works. These works are short term in duration, and impacts arising will be temporary and localised. Considering the nature of the proposed access arrangement, as revised at further information stage, and temporary nature of construction works particularly having regard to the relatively modest scale of the dwelling, I consider that the construction stage is unlikely to cause an adverse loss of amenity to the adjoining residents. If An Coimisiún is minded to grant permission, I recommend a condition that requires the making of the proposed driveway prior to the commencement of any other construction and that all construction related vehicles are to use the new access arrangement.

7.4. Access and Right of Way

- 7.4.1. In the observations to the planning authority, a copy of which form part of the appeal, the appellant contends that the access arrangement, as revised at further information

stage, includes the construction of part of the driveway through part of the appellant's property that is not covered by the right of way. The appellant further queries the legal right of the applicant to use the right of way for the purposes of accessing a new dwelling on the site.

- 7.4.2. I note that a planner's report, dated 12th February 2025, published in respect of the previous application on the appeal site (ref. 24/60927 refers) includes a copy of the map on Folio DL65937F, which pertains to the appellants property (adjoining cottage). An Coimisiún is advised that a copy of the aforementioned planner's report is included in the history file for the current appeal.
- 7.4.3. With regards the right of way and legal right or otherwise of the applicant to use same, I note that Section 5.13 of the Development Management Guidelines 2007 outlines that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts and that as per Section 34(13) of the Planning and Development Act 2000, as amended, a person is not entitled solely by reason of a permission to carry out any development. As such, issues in relation to rights over land are ultimately civil / legal issues therefore it is considered that the issue of a right of way should not form the basis of a planning application assessment.
- 7.4.4. However, I do have concerns with regards the access arrangement as revised at further information stage. The site plan, as initially lodged, shows access via the existing laneway which appears to be covered by a right of way that extends north partially through the appeal site and onto other land beyond. The amended site plan shows that the applicant would use the existing entrance and a small section of the existing driveway before taking a new driveway in a northwestern direction through his own site. I consider this to be a reasonable solution to avoid the routing of cars close to the front door of the appellant's property, however having regard to the alignment of the right of way as indicated on the folio map, to construct a new vehicular driveway as per the amended site plan, would appear to traverse land that is outside of the applicant's ownership, hence outside the red line, and also not covered by the right of way. In this regard, I am not satisfied that the applicant has demonstrated sufficient legal interest to make the application. An Coimisiún may wish to seek the views of relevant parties however having regard to the other substantive reasons for refusal set

out above with respect to housing need, it may not be considered necessary to pursue the matter.

7.5. Other Matters

Wastewater Treatment

- 7.5.1. The applicant has completed a Site Characterisation Form. The form outlines that the site is underlain by a poor aquifer with groundwater of high vulnerability and identifies a groundwater response of R2¹. I note that the actual recommended response as per the 2021 EPA code of practice is R1 however R21 relates to a higher vulnerability therefore, in my view, is acceptable. The form concludes that the site is suitable for a septic tank or secondary treatment system and the recommendation is to install the latter. I note that within a trial hole excavated, bedrock was encountered at 1.8m and the water table at 1.6m. An average subsurface percolation value of 30.72 was recorded. Based on the submitted information it has been demonstrated that the proposed wastewater treatment system complies with EPA Code of Practice guidance in terms of ground conditions and separation distance. I note the Planning Authority concluded that the site is suitable for the treatment of wastewater. I consider that the proposal to install a secondary treatment system in this instance is acceptable. If An Coimisiún is minded to grant permission, I recommend that a standard condition is included.

8.0 EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendix 1 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.

9.0 Appropriate Assessment

Refer to Appendix 2. Having regard to nature, scale and location of the proposed development and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Water Framework Directive

Refer to Appendix 3. 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.

11.0 Recommendation

I recommend that permission for the development be refused for the following reasons and considerations.

12.0 Reasons and Considerations

1. Having regard to the location of the site in an Area Under Strong Holiday Home Influence and Policy RH-P-2 of the County Donegal Development Plan 2024-2030, and the documentation received in connection with the planning application, it is considered that, in the absence of the provision of evidence of demonstrable economic or social need at this location, the proposed development would result in a haphazard and unsustainable form of development, would contribute to the encroachment of random rural development in the area, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Jim Egan
Planning Inspector

28th October 2025

Appendix 1 - Form 1

EIA Pre-Screening

Case Reference	ACP-323239-25
Proposed Development Summary	Construction of a dwelling and all other associated site development works.
Development Address	Ballintemple, Falcarragh, Letterkenny, Co. Donegal
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under	

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

Inspector: _____

Date: _____

Appendix 1 - Form 2

EIA Preliminary Examination

Case Reference	ACP-323239-25
Proposed Development Summary	Construction of a dwelling and all other associated site development works.
Development Address	Ballintemple, Falcarragh, Letterkenny, Co. Donegal
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The proposed development comprises the construction of a new dwelling and new on-site wastewater system.</p> <p>The development comes forward as a standalone project, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption 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 within or immediately adjacent to any designated site. The proposed development would be connected to a public water supply. The proposal would include installation of a new secondary wastewater treatment system and soil polishing filter. Stormwater would be discharged to an existing drain.</p> <p>It is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.</p>

Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
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: _____

Date: _____

Appendix 2

AA Screening

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Ref: ACP-323239-25	
Brief description of project	Construction of a dwelling and all other associated site development works. See Section 2.0 of Inspector's Report.
Brief description of development site characteristics and potential impact mechanisms	<p>The proposed development comprises the construction of a new dwelling.</p> <p>The site is not located within or immediately adjacent to any designated site. The proposed development would be connected to a public water supply. The proposal would include installation of a new secondary wastewater treatment system and soil polishing filter. Stormwater would be discharged to an existing drain.</p> <p>There are no watercourses or other ecological features of note on or adjacent to the site that would connect it directly to European Sites in the wider area.</p>
Screening report	<p>No.</p> <p>The planning authority concluded having regard to the scale and nature of the proposed development, alongside the physical distances from the nearest Natura 2000 site, the presence of several local / county roads and existing development separating the subject site from the nearest Natura 2000 sites, and no known direct hydrological links, it is not considered that the proposed development would be likely to have any significant effect, individually or in combination with any other plan or project, and it considered that Screening for Appropriate Assessment is not required in this instance.</p>
Natura Impact Statement	No
Relevant submissions	No

Step 2: Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests Link to conservation objectives (NPWS, 21 st October 2025)	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
Falcarragh to Meenlaragh SPA (Site Code: 004149)	Corncrake Conservation Objectives NPWS, 2024	c. 1.9km	No direct connection. Weak indirect connection via surface water drains	Y
Ballyness Bay SAC (Site Code 001090)	Estuaries, mudflats, sandflats, dunes. Whorl Snail Conservation Objectives NPWS, 2014	c. 2km	No direct connection. Weak indirect connection via surface water drains	Y
Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites				
AA Screening matrix				
Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*			
	Impacts	Effects		
Falcarragh to Meenlaragh SPA (Site Code: 004149) Corncrake (Crex crex) [A122]	Direct: No direct impacts and no risk of habitat loss, fragmentation or any other direct impact. Indirect: <u>Construction:</u> Low risk of surface water runoff from construction reaching sensitive receptors. Intervening land provides a buffer which would dilute any minor emissions.	The nature of the proposal and nature of the site in terms of no direct ecological connections or pathways, and intervening land, make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect the qualifying interests of the SPA. Conservation objectives would not be undermined.		

	By reason of distance, there is a low risk of noise impacts. <u>Operational:</u> New secondary wastewater treatment system addresses the risk of foul water entering ground or surface water.	
	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	
	Impacts	Effects
Ballyness Bay SAC (Site Code 001090) Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] 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] Vertigo geyeri (Geyer's Whorl Snail) [1013]	Direct: No direct impacts and no risk of habitat loss, fragmentation or any other direct impact. Indirect: <u>Construction:</u> Low risk of surface water runoff from construction reaching sensitive receptors. Intervening land provides a buffer which would dilute any minor emissions. <u>Operational:</u> New secondary wastewater treatment system addresses the risk of foul water entering ground or surface water.	The nature of the proposal and nature of the site in terms of no direct ecological connections or pathways, and intervening land, make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect the qualifying interests of the SAC. Conservation objectives would not be undermined.
	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	
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 Falcarragh to Meenlaragh SPA (Site Code: 004149) or Ballyness Bay SAC (Site Code 001090) or any other European site. 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 Falcarragh to Meenlaragh SPA (Site Code: 004149) or Ballyness Bay SAC (Site Code 001090) or any other European site, 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 of the proposed development
- Distances to the nearest European sites and the hydrological pathway considerations
- Intervening land uses.

Appendix 3 – WFD Stage 1: Screening

WATER FRAMEWORK DIRECTIVE IMPACT ASSESSMENT STAGE 1: SCREENING

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

Case Ref.	ACP-323239-25	Townland, address	Ballintemple, Falcarragh, Letterkenny, Co. Donegal
Description of project	<p>Planning permission is sought for the construction of a dwelling.</p> <p>The proposed development would be connected to a public water supply. The proposal would include installation of a new secondary wastewater treatment system and soil polishing filter. Stormwater would be discharged to an existing drain.</p>		
Brief site description, relevant to WFD Screening,	<ul style="list-style-type: none"> • The site is located in a rural area. • No watercourse within the boundary of the site. • The closest waterbodies are two streams c. 300m to the northeast (EPA Names: AN_CHEATHRÚ_CHEANAINN_010 and RAY_010). Both streams are tributaries of the Ray River, which flows into the Atlantic Ocean at Tramore Beach c. 3.7km north of the site. • The proposed development site is located within the Gweebarra-Sheephaven Catchment and the Tullaghobegly_SC_010 sub-catchment. • The site is located in the Northwest Donegal ground waterbody, in an area of high groundwater vulnerability. • GSI Mapping shows that the site is underlain by poorly drained mineral soil. 		
Proposed surface water details	Stormwater would be discharged to an existing drain.		
Proposed water supply source & available capacity	The application states that mains water is available.		

Proposed wastewater treatment system & available capacity, other issues	Proposal to install a new secondary wastewater treatment system and soil polishing filter.
Others?	N/A

Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
Unnamed Stream	c. 300m to the northeast of the site. River flow to the northwest.	AN_CHEATHRÚ_C HEANAINN_010 European Code: IE_NW_38C180660	The River Waterbody WFD Status 2019-2024 awarded the stream a status of 'Moderate'	Review	-	Surface water Groundwater
Unnamed Stream / Ray River For the purposes of the WFD, the stream is part of the Ray River	c. 300m to the northeast of the site. River flow to the east to join the Ray River.	RAY_010 Code: IE_NW_38R010200	The River Waterbody WFD Status 2019-2024 awarded the river a status of 'Poor'	At Risk	Unknown	Surface water Groundwater

Atlantic Ocean	c. 3.7km to the north of the site	Northwestern Atlantic Seaboard (HAs 37;38) Code: IE_NW_100_0000	The Coastal Waterbody WFD Status 2019-2024 awarded Northwestern Atlantic Seaboard a status of 'High'	Not at Risk	-	Surface water Groundwater
Northwest Donegal ground waterbody, in an area of high groundwater vulnerability	N/A	European Code: IE_NW_G_049	The Ground Waterbody WFD Status 2019-2024 awarded Donegal ground waterbody a status of 'Good'	Not at Risk	-	Surface water Groundwater

Step 3: 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.	Construction related contaminants entering ground water and surface water drains.	AN_CHEATH RÚ_CHEAN AINN_010 RAY_010 Northwestern Atlantic Seaboard Northwest Donegal ground waterbody	Existing	Water quality degradation. Site is underlaid by poorly-drained soil therefore indicative of relatively slow percolation of water / pollutants.	Standard construction practices.	No	N/A

OPERATIONAL PHASE

2.	Untreated foul water entering	AN_CHEATH RÚ_CHEAN AINN_010	New	Water quality degradation.	Installation of an EPA compliant	No	N/A
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	groundwater and surface water drain.	RAY_010 Northwestern Atlantic Seaboard Northwest Donegal ground waterbody		Site is underlaid by well-drained soil therefore indicative of relatively fast percolation of water / pollutants	secondary wastewater treatment system.		
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