



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319257-24

|                                     |                                                                  |
|-------------------------------------|------------------------------------------------------------------|
| <b>Development</b>                  | Erection of dwelling house with septic tank and domestic garage. |
| <b>Location</b>                     | Croghan, Rosnakill, Letterkenny, Co. Donegal                     |
| <b>Planning Authority</b>           | Donegal County Council                                           |
| <b>Planning Authority Reg. Ref.</b> | 2352002                                                          |
| <b>Applicant(s)</b>                 | Ann Marie Shields                                                |
| <b>Type of Application</b>          | Permission                                                       |
| <b>Planning Authority Decision</b>  | Grant Permission with Conditions                                 |
| <b>Type of Appeal</b>               | Third Party                                                      |
| <b>Appellant(s)</b>                 | Brighidín Hawke                                                  |
| <b>Observer(s)</b>                  | None                                                             |
| <b>Date of Site Inspection</b>      | 22 <sup>nd</sup> November 2024                                   |
| <b>Inspector</b>                    | Ronan O'Connor                                                   |

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## 1.0 Site Location and Description

- 1.1. The subject site comprises a stated area of 0.232ha, in the townland of Croghan, Rossnakill. The site comprises of gradually sloping lands, sloping in a southeastern direction. The immediately adjoining area is characterised by a cluster of sporadic single dwellings. There is significant vegetation on the roadside boundary and to the south-eastern end of the site.

## 2.0 Proposed Development

- 2.1. Erection of dwelling house with septic tank and domestic garage.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Grant permission [decision date 22nd February 2024].

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner's Report [dated 12<sup>th</sup> February 2024] is summarised below:

##### Principle of Development

- Noted the site is within a Structurally Weak Rural Area/Policy RHP4 of the CDP 2018-2024 applies.
- Note *bona fides* letter of support from elected representative received.
- Principle of development is acceptable based on the bona fide letter.

##### Siting and Design

- Principle of a dwelling on the site established in 2004-2006.
- Was not acted upon/other developments have been granted/gradual build up of dwellings the area is of concern.
- However, site falls within a cluster/will not result in ribbon development.

- Dwelling is modest in scale, height and bulk/could be considered a design typical of holiday homes/will be restricted by condition.
- Siting of the dwelling is largely in keeping with the established build-up of dwellings in the vicinity of the site.
- Watermain has been delineated by the applicant/shown not to conflict with the dwelling house/condition will be imposed to ensure dwelling is not constructed in the vicinity of the watermain.

#### Residential Amenity

- No issues arise in relation to adjoining residential amenity.
- Sufficient private amenity space is provided.

#### Access

- Sufficient sight lines of at least 50m in either direction have been achieved.
- Conditions will be imposed in the event of a grant to alleviate any traffic concerns the engineer has with the proposed development.
- Public Health
- Proposed WWTS acceptable given characteristics of the site.

#### Recommendation

- Recommendation was to grant permission.

### 3.2.2. Other Technical Reports

Roads [report dated 16<sup>th</sup> January 2024] – Applicant to install 225mm drainage pipes to the front of the site to prevent surface water entering the site and onto the local road/Hedge Line to be removed along full frontage of the site to ensure sightline can be achieved/Entrance walls and pillars offset 6.5m from centre of road.

### 3.2.3. Conditions

Conditions of note include:

Condition 8 – area between old and new front boundaries shall be soiled to a height no higher than 100mm above the level of the adjacent carriageway and shall be seeded with grass.

Condition 16 – No building to occur within 10m of the watermain pipeline which traverses through the site.

### **3.3. Prescribed Bodies**

- 3.3.1. Irish Water – No objections/Noted a water main is on site which may have to be moved. [I would note that this appears to have been received after the date of the Planner's report and is not referenced in same].

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

- 3.4.1. 1 no. submission was received at application stage. This is summarised in the Planner's report. I would note that the issues raised are similar to those raised in the grounds of appeal.

## **4.0 Planning History**

047904 Grant permission for erection of a dwelling house and septic tank [decision date 15th October 2004]

0651441 Grant permission for erection of detached dwelling house and septic tank [decision date 22nd December 2006]

## **5.0 Policy Context**

### **5.1. Development Plan**

The relevant Development Plan is the County Donegal Development Plan 2024-2030.

The site lies within a Structurally Weak Rural Area with reference to Map 6.3.1 of the Development Plan.

Relevant Objectives and Policies include:

Objective RH-O-1 To ensure that new residential development in rural areas provides for genuine rural need.

Objective 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.

Policy RH-P-3 -To consider proposals for new one-off housing within 'Structurally Weak Rural Areas' from any prospective applicants for a dwelling house, subject to siting and design considerations and compliance with all other relevant policies of this Plan including Policy RH-P-9. New holiday homes will not be permitted in these areas.

Policy RH-P-9 relates to impact on the landscape, design, ribbon development, impact on amenity, site characteristics and impact on the environment, including the safe disposal of effluent and surface waters.

## Chapter 11 – Natural, Built and Archaeological Heritage

The site lies in an Area of Moderate Scenic Amenity with reference to Map 11.1 of the Development Plan (noting that it lies just outside an Area of High Scenic Amenity). These areas are defined as 'primarily landscapes outside Local Area Plan Boundaries and Settlement framework boundaries, that have a unique, rural and generally agricultural quality. These areas have the capacity to absorb additional development that is suitably located, sited and designed subject to compliance with all other objectives and policies of the Plan'.

Objective L-O-1 To protect, manage and conserve the character, quality and value of the Donegal landscape.

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

## Chapter 16 – Technical Standards

Table 16.3: Roadside Boundaries in Rural Areas

Entrance Details - Entrance details for residential properties shall be laid out in accordance with Table 16.1 and Figure 21.1, Entrance Details and Residential Properties.

#### Visibility Spays at junctions/Site Entrances

Visibility splays at junctions and site entrances shall be provided in accordance with 12.3 or table 12.4, as appropriate.

Table 16.5: Vision Lines at accesses to Non-National Rural Roads, outside 60kph speed limit zone

#### Building Setback on Non-National Roads

A minimum of 25m setback will be required from centreline of carriageway on Regional Roads and 15m setback will be required from centreline of carriageway on Local Roads. Where existing buildings have formed an established building line, new buildings may follow the established building line, and the proposed set back may not be required.

#### Stopping Sight Distance

Minimum stopping sight distances on Non-National Roads in rural areas outside a 60 kph speed limit zone shall be in accordance with Table 12.5 below. Deviation from the requirements in Table 16.5 may be considered upon certification by the applicant's designer to be designed and constructed in accordance with DMRB.

## 5.2. Natural Heritage Designations

- 5.2.1. The nearest designated site is Mulroy Bay SAC (Site Code 002159) which is located approximately 500m west of the site.

## 5.3. EIA Screening

- 5.3.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

#### **5.4. Appropriate Assessment**

- 5.4.1. Having regard to the minor nature and scale of the proposed development, the site location outside of any protected site, the nature of the receiving environment and the proximity of the lands in question to the nearest European Site (Mulroy Bay SAC Site Code 002159, which is located approximately 500m west of the site), it is my opinion that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

### **6.0 The Appeal**

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

- 6.1.1. 1 no. third-party appeal was received on 11th March 2024. The grounds of appeal are summarised below:
- Does not comply with policy on housing needs/applicant is a woman with tenuous connections to the area/site owner has no connection to the area.
  - Applicant does not need a dwelling house in the area.
  - Applicant could build a house on another site belonging to her brother that already has planning permission (which has lapsed).
  - Could renovate one of 2 no. vacant houses in the centre of Tamney/belong in the applicant's family.
  - Will further erode rural integrity of the area/area is an enclave of holiday homes.
  - House will be operated as an Air B&B.
  - No one to enforce the condition restricting use as a holiday home/other houses in the area have openly contravened this condition.
  - Traffic survey is not accurate/taken as lockdown was ending/does not reflect normal times.
  - Schools were not back properly.
  - Does not account for shift workers.



- Road is regularly used.
- Timing of the survey does not reflect the situation on the ground (14:30 to 17:00)
- Site entrance on this road will be dangerous.
- Visibility is restricted on both sides.
- Route is popular with walkers, runners and cyclists.
- Plans are exact replica of plans that were used for holiday homes in the area.
- Site is hemmed in a bounded by rocks at side and back/on other side by farmer's land/and front runs along main road.
- Decision is based on very flimsy evidence.
- No employment in the area.
- More than adequate housing the area.
- Of 34 no. houses in the wider area, 12 are permanent homes, 5 are registered as Air B&Bs or other sites, 6 are permanently vacant and 11 are holiday homes.
- Air B&B homes not maintained/amenity issues with same.
- History of site transactions set out.
- Reference is made to previously withdrawn applications.
- Previous conditions were not adhered to in relation to 2 no. sites referred to.
- Reference is made to another allegedly unauthorised developments on another site.
- This house would be booked in conjunction with the house on the adjacent site/would impact on amenity/safety/noise issues from same.
- Applicant's parent's house is situated 2km from the subject site.

## 6.2. Applicant Response

6.2.1. A first party response to the appeal was received on 8th April 2024. This is summarised below:

- Area is defined as a Structurally Weak Area/Policy RH-P-4 applies.

- Applicant was born and reared in the area/still has family members residing in the area.
- Has not been suggested that the proposal did not comply with RH-P-1 or RH-P-2.
- House type is considered modest/reflected in rising construction costs/in keeping with traditional Irish vernacular.
- No matters arising in the appellant's statement which undermine the conclusions set out in the Planning Authority's report.
- Bone fides have been provided from an elected member within the Milford/Letterkenny Electoral area.
- Submission to DCC on the application differs from appeal submission (in terms of no. of houses visible from appellant's property).
- Population decline in the area/need to assist those who wish to return to live permanently in these areas which are considered Structurally Weak.
- Appellant's issues with neighbouring dwellings are not related to the applicant in this case.
- Proposed entrance details complies with Development Plan requirements
- Proposed construction of the entrance will enhance the vision lines at the junction of L-1122-1 & L-11221.
- Insinuation that the dwelling will be used as an Air B&B is entirely subjective in nature/Condition 2 sets out the conditions around the occupancy of the dwelling.
- PA has considered the architectural form, access and servicing arrangements to be acceptable.

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

6.3.1. A response from the Planning Authority was received on 5th April 2024. This is summarised below:

- PA is satisfied that the principle of development is acceptable based on the submitted bone fide letter as sole evidence of rural housing need.

- Condition was imposed restricting the dwelling to be used as a principal place of residence of the applicant or with the written consent of any person with a need for a dwelling house/non-compliance with same is a matter for planning enforcement to resolve.
- No objections raised by the Roads Department subject to conditions.

#### **6.4. Observations**

6.4.1. None.

### **7.0 Assessment**

- 7.1.1. I would firstly draw the Board's attention to the fact that the application was considered by Donegal County Council under the provisions of the previous Development Plan (County Donegal Development Plan 2018-2024). The current Development Plan is County Donegal Development Plan 2024-2030 which was adopted on 16th May 2024 and came into effect on 26th June 2024. I have considered this appeal under the applicable provisions of the current Development Plan.
- 7.1.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:
- Rural Housing Policy
  - Transport Issues
  - Residential Amenity
  - Wastewater
  - Other Issues

#### **7.2. Rural Housing Policy**

- 7.2.1. The site lies within a Structurally Weak Rural Area with reference to Map 6.3.1 of the Development Plan. I note that under the provisions of the previous Development

Plan it also was within a Structurally Weak Area. Relevant Objectives and Policies include:

- Objective RH-O-1 To ensure that new residential development in rural areas provides for genuine rural need.
- Policy RH-P-3 -To consider proposals for new one-off housing within 'Structurally Weak Rural Areas' from any prospective applicants for a dwelling house, subject to siting and design considerations and compliance with all other relevant policies of this Plan including Policy RH-P-9. New holiday homes will not be permitted in these areas.

7.2.2. Policy RH-P-9 relates to impact on the landscape, design, ribbon development, impact on amenity, site characteristics and impact on the environment, including the safe disposal of effluent and surface waters.

7.2.3. I would note that Objective RH-O-1 seeks to ensure residential development in rural area provides for rural need, while Policy RH-O-4 considers proposals from any perspective applicants, and there is no requirement to demonstrate an economic or social need to live in the area. In relation to the above, the Supplementary Rural Housing Application Form submitted with the application indicates that the proposed dwelling will be the primary, principle and permanent residence of the applicant. It is noted within same that a previous permission was granted on the same site but not built (PA Ref 0651441). In terms of demonstrating rural need, the applicant has submitted a letter of *bone fides* from Joe McHugh, TD, which states the applicant grew up in the area for most of her life and has family in the area. There is no other supporting information included with the application.

7.2.4. In relation to 'Structurally Weak Areas' the National Planning Framework seeks to encourage population to be sustained in such areas, that have experienced low growth or decline in recent decades, while sustaining vibrant rural communities (Section 5.3 refers). National Policy Objective (NPO) 15 seeks *inter alia* to support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades. NPO 19 seeks to facilitate the provision of housing, outside areas of urban influence, based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements

- 7.2.5. The Sustainable Rural Housing Guidelines 2005 further state that the housing requirements of persons with roots or links in rural areas are to be facilitated and that planning policies should be tailored to local circumstances.
- 7.2.6. Given the location of the site, and the applicable policy (Policy RH-O-4), I note that there is no requirement to demonstrate economic and social need for the dwelling house, and the rural need has been demonstrated by way of the letter of *bone fides* submitted with the application. Therefore, I am of the view that a dwelling house at this location, is acceptable in principle.
- 7.2.7. Specifically in relation to the other points raised in the appeal submission, reference is made to a lapsed planning permission on another site belonging to the applicant's brother. I am not of the view that this is of relevance to this appeal, and I am not of the view it is a material consideration in the assessment of this current appeal. Reference is made also to the suggestion that the applicant could renovate one of the 2 no. vacant houses in the centre of Tamney that belong in the applicant's family. While I note that the viability of smaller towns and settlements is a consideration, when considering proposals for rural housing (as per NPO 19), there is insufficient evidence on file to demonstrate that the renovation of the properties referred to is a viable option for the applicant.
- 7.2.8. The appellant has also stated there are too many holiday homes in the area and that this property will be used as an Air BnB or a holiday home. I note that the current Development Plan does not permit any additional holiday homes in any rural area. I would note also that Donegal County Council have attached an occupancy condition on the grant of permission, which would prevent its use as a holiday home. If the Board are minded to grant permission, I would recommend that this condition is re-imposed. In relation to other properties being used as holiday homes or Air BnBs, I am not of the view that this is relevant consideration in the assessment of this appeal, and the application in this instance is not for a holiday home or for an Air BnB. It is for a permanent residence for the applicant. Any potential non-compliance with the occupancy condition would be a matter for the Enforcement Division of Donegal County Council, as would any alleged unauthorised development or non-compliance with conditions on other sites.

### **7.3. Traffic Issues**

- 7.3.1. The appellant has stated that a site entrance on this road will be dangerous, and that visibility will be restricted on both sides. It is further stated that the Traffic survey submitted with the application is not accurate and was taken as the Covid related lockdown was ending and does not account for all relevant traffic.
- 7.3.2. As referred to above, a Traffic Survey was submitted with the application. Based on survey results taken on 2nd September 2021, between the hours of 14:30 and 17:00, this indicates that the average speed of vehicles approach from the north-west is 46.9 km/h and from the south-east is 41.89 km/h. It is set out that the required vision lines are 70m to the north-west and 50m to the south-east, from a point 2.4m back from the road edge. This is not, in fact, the case and Table 16.4 'Vision Lines at accesses to Non-National Rural Roads, outside 60kph speed limit zone' of the current Development Plan sets out that, for roads with speeds of less than 50 kph, vision lines of 50m are required. The required 50m sightlines are indicated on the site layout plan.
- 7.3.3. In relation to those issues raised in the appeal, I would accept that, to the north-west, visibility is very poor, as existing, due to the combination of the bend in the road and the vegetation on site. The achievement of the 50m sightline is therefore dependant on the removal of vegetation on the site, which is within the applicant's control and the complete removal of the vegetation on the boundary with the road was required by the Roads Department of Donegal County Council. With this removal of vegetation, I am satisfied that the 50m vision lines as shown on the plans are achievable. In relation to the contents and methodology of the traffic survey, I accept that the Covid 19 restrictions may have had some impact on traffic volumes, but this cannot be quantified in my view. However, this does not necessarily render the survey results invalid, as the volume of traffic that was surveyed allowed for average speed values to be determined, which has determined the appropriate vision lines for the proposed site entrance. While the timing of the survey may not have picked up every journey type (i.e. shift workers as referred to in the appellant's statement), again I am satisfied that that sufficient volumes of traffic were surveyed in order to determine the appropriate vision lines for the site.

#### 7.4. Residential Amenity

- 7.4.1. The appellant has stated that the proposed dwelling, if used as an Air BnB, or a holiday home, would result in adverse impacts on residential amenity, including noise impacts and impacts on safety.
- 7.4.2. In relation to same, I would reiterate that the application is not for a holiday home, nor an Air BnB, and will be utilised as a permanent dwelling for the applicant. The use of the site for residential purposes will not give rise to noise issues over and above what would be expected from a residential dwelling, nor will it give rise to any material impacts on safety. I would again note that, should the Board be minded to grant permission, a condition in relation occupancy can be imposed to ensure that the property is not utilised as a holiday home or an Air BnB.
- 7.4.3. I am satisfied, therefore, that no adverse impacts on residential amenity will occur as a result of the proposed development.

#### 7.5. Wastewater

- 7.5.1. I would note that wastewater has not been raised as an issue within the appeal submission. Notwithstanding, the Board should be satisfied that the site is suitable for wastewater discharge to ground as is proposed here.
- 7.5.2. A 'Site Suitability Assessment Report' (dated September 2021) was submitted with the application. The report identifies the category of aquifer as 'Poor Aquifer', with a vulnerability classification of 'extreme'. Table E1 (Response Matrix for DWWTSs) of the EPA Code for Practice Domestic Wastewater Treatment Systems<sup>1</sup> identifies an 'R2<sup>1</sup>' response category i.e. *'acceptable subject to normal good practice. Where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised'*.
- 7.5.3. The Site Characterisation Assessment Report notes that that potential targets at risk are groundwater and surface water. It is stated that the site is relatively shallow (between 1:5 and 1:20), with a gradual slope east to west. It is set out that the ground conditions and vegetation present would suggest good percolation, with no

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<sup>1</sup> Code of Practice: Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (Environmental Protection Agency, March 2021).

specific site restrictions apparent. I would not concur with this observation, noting that rushes on the lower slopes of the site would generally indicate wetter conditions. However, there did not appear to be any standing water on the site.

- 7.5.4. The report indicates that a trial hole, with a depth of 2.7m, recorded silt/clay, to a depth of 0.5m and silt/gravel to the base of the trial hole. However, the report is contradictory as it is further noted that the water table was encountered at 1.5m below ground level (BGL), with bedrock encountered at 1.6m BGL. The report concludes that the excavated subsoils appear to have good drainage qualities, and the presence of gravel would suggest good percolation properties.
- 7.5.5. In relation to the tested percolation characteristics of the soil, a sub-surface percolation test result of 28.33min/25mm (previously known as a 'T' Test) was returned. This is within the range as set out in the EPA Code of Practice (which requires a percolation value of at least 3, but not greater than 50 (for a septic tank) or 90 to 120 (for varying types of secondary treatment systems). As such, the test has demonstrated that the soil underlying the site is suitable for wastewater discharge to ground, notwithstanding the presence of vegetation indicating more wet conditions, as referred to above.
- 7.5.6. The report concludes that the site is suitable for the installation of a secondary or tertiary treatment system, discharging to ground water. The recommended treatment system is a Secondary Treatment System and soil polishing filter, discharging to ground. This is as shown on the proposed site layout plan (Dwg. No. 3).
- 7.5.7. As noted above, within the Site Characterisation Assessment Report, there is inconsistency in relation to the depth to bedrock, with no bedrock being reported in one section of the report (the trial hole depth is reported as being 2.7m) and in another section, it is reported that bedrock was encountered at 1.6m BGL, with the water table encountered at 1.5m BGL. However, I am of the view that the reporting of the bedrock and water table is most likely an error, with reference to the site photographs as contained in Appendix C of the Site Characterisation Assessment Report. Photo 1 would appear to show a depth of c2.7m with no water or bedrock visible. As such, it is likely that the minimum soil depth of 0.9m beneath the point of infiltration (i.e. the base of the distribution gravel of the soil polishing filter) and water table/bedrock can be achieved in this instance, as required by the Table 6.3 EPA



Code of Practice (COP)<sup>2</sup> for such secondary treatment systems. The depth of soil will also allow for 300mm topsoil above the polishing filter. While no cross sections have been provided, I would note that the proposed DWWTS will be required to be installed to EPA requirements, and this includes the appropriate positioning of the percolation piping with the required minimum depth below. A standard condition can be imposed in relation to same. In this manner, and having regard to the suitability of the soil and subsoil for the system as proposed, and the nature of the site, the Board can be satisfied that the proposed DWWTS will operate in a satisfactory manner.

- 7.5.8. In conclusion therefore, and having regard to the site percolation test results, and the supporting documentation accompanying the application, I consider it has been demonstrated that the site can accommodate a wastewater treatment system as recommended in the Site Characterisation Form, subject to the system being installed as recommended and in line with the EPA Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10), 2021.

## **7.6. Other Issues**

- 7.6.1. Amenity Space – The appellant has stated that the site does not allow for adequate amenity space to be provided. However, I would note that amenity space to the front and to the side has been provided, albeit the side element has significant vegetation. Notwithstanding, the space does have an amenity value and overall, I am satisfied that sufficient space has been provided.

## **8.0 Recommendation**

Having regard to the foregoing assessment it is considered that the proposed development should be granted for the following reasons and considerations and in accordance with the following conditions.

## **9.0 Reasons and Considerations**

The applicants have adequately demonstrated that they have a rural need to live in the area, in compliance with Objective RH-O-1 of the County Donegal Development Plan 2024-2030, noting also that applications from any prospective applicants will be

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<sup>2</sup> EPA Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10), 2021

considered in such 'Structurally Weak Areas', subject to other considerations as set out in the Development Plan, as per Policy RH-P-3 of the Development Plan.

Furthermore, it is considered that, subject to compliance with the conditions as set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and would not be prejudicial to public health, noting that it has been adequately demonstrated that the site is suitable for the disposal and treatment of effluent. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter (unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant). Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed dwelling is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. Prior to commencement of development, permanent visibility splays of 50 metres shall be provided in each direction to the nearside road edge at a point 2.4 metres back from road edge at location of vehicular entrance. Visibility in the vertical plane shall be measured from a driver's eye- height of 1.05 metres and 2 metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision splays shall be calculated and provided as per in Figure 16.2 'Measurement for visibility Splays [X & Y distances]' of the County Donegal Development Plan, 2024-2030.

**Reason:** In the interests of traffic safety.

4. The existing roadside boundary shall be removed along entire road frontage of site and new dark stained tanalised timber fence, back planted with a hedgerow of species native to the area, shall be located along a line at least 5 metres from centre line of public road. Said fence and hedgerow shall incorporate and entrance with a minimum width at road fence to line of gates of 9.15m, minimum depth from road fence to line of gates as set out in Figure 16.1 'Entrance Details For Residential Properties' of the County Donegal Development Plan, 2024-2030, and based on the new fenceline.

**Reason:** In the interests of traffic safety and to preserve the amenities of the area.

5. The entrance walls and pillars shall be setback 6.5m from centre of road.

**Reason:** In the interests of traffic safety and to preserve the amenities of the area.

6. All overhead and underground poles and lines shall be set back to line of new fenceline at developers' expense and no obstructing pole(s) shall be left on layby.

**Reason:** In the interests of traffic safety.

7. The area between old and new front boundaries shall be soiled to a height no higher than 100mm above the level of the adjacent carriageway and shall be seeded with grass.

**Reason:** To preserve the amenities of the area.

8. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Irish Water and the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road. No building is to occur within 10m of the watermain pipeline which traverses through the site.

**Reason:** In the interest of traffic safety, public health and orderly development.

9. (a) Save for the roadside boundary, a hedgerow of semi-mature species native to the area shall be planted along the remaining boundaries within the first planting season following commencement of development.

(b) In addition, all landscaping works shall be completed, within the first planting season following commencement of development, in accordance with the plans and particulars lodged with the application. Any trees and hedging which die, are removed or become seriously damaged or diseased, within a period of 3 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of biodiversity and the visual and residential amenity of the area.

10. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – The Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Ronan O'Connor  
Senior Planning Inspector

6<sup>th</sup> December 2024

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

[EIAR not submitted]

|                                                                                                                                                                                                                                                       |                                                                 |                                                                                                                                                                                                   |                                                                                     |                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-------------------|
| <b>An Bord Pleanála<br/>Case Reference</b>                                                                                                                                                                                                            | ABP-319257-24                                                   |                                                                                                                                                                                                   |                                                                                     |                   |
| <b>Proposed Development<br/>Summary</b>                                                                                                                                                                                                               | Erection of dwelling house with septic tank and domestic garage |                                                                                                                                                                                                   |                                                                                     |                   |
| <b>Development Address</b>                                                                                                                                                                                                                            | Croghan, Rosnakill, Letterkenny, Co. Donegal                    |                                                                                                                                                                                                   |                                                                                     |                   |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings)                                        |                                                                 | <b>Yes</b>                                                                                                                                                                                        | X                                                                                   |                   |
|                                                                                                                                                                                                                                                       |                                                                 | <b>No</b>                                                                                                                                                                                         |                                                                                     |                   |
| <b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>   |                                                                 |                                                                                                                                                                                                   |                                                                                     |                   |
| <b>Yes</b>                                                                                                                                                                                                                                            |                                                                 |                                                                                                                                                                                                   |                                                                                     |                   |
| <b>No</b>                                                                                                                                                                                                                                             | X                                                               |                                                                                                                                                                                                   | Proceed to Q.3                                                                      |                   |
| <b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b> |                                                                 |                                                                                                                                                                                                   |                                                                                     |                   |
|                                                                                                                                                                                                                                                       |                                                                 | <b>Threshold</b>                                                                                                                                                                                  | <b>Comment<br/>(if relevant)</b>                                                    | <b>Conclusion</b> |
| <b>No</b>                                                                                                                                                                                                                                             |                                                                 |                                                                                                                                                                                                   |                                                                                     |                   |
| <b>Yes</b>                                                                                                                                                                                                                                            | X                                                               | Class (10)(b) of Schedule 5 Part 2<br>Construction of more than 500 dwelling units;<br><br>Urban development which would involve an area greater than 2 ha in the case of a business district, 10 | 1 dwelling house on a site of 0.232 Ha. The applicable site area threshold is 20ha. | Proceed to Q.4    |

|  |  |                                                                      |  |  |
|--|--|----------------------------------------------------------------------|--|--|
|  |  | ha in the case of other parts of a built-up area and 20 ha elsewhere |  |  |
|--|--|----------------------------------------------------------------------|--|--|

| 4. Has Schedule 7A information been submitted? |   |                                  |
|------------------------------------------------|---|----------------------------------|
| No                                             | X | Preliminary Examination required |
| Yes                                            |   | Screening Determination required |

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_



## Appendix 2 - Form 2 - EIA Preliminary Examination

|                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                   |                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| <b>An Bord Pleanála Case Reference</b>                                                                                                                                                                                                                                                     | 319257-24                                                                                                                                                                                                                                                                                                                                                         |                              |
| <b>Proposed Development Summary</b>                                                                                                                                                                                                                                                        | Erection of dwelling house with septic tank and domestic garage.                                                                                                                                                                                                                                                                                                  |                              |
| <b>Development Address</b>                                                                                                                                                                                                                                                                 | Croghan, Rosnakill, Letterkenny, Co. Donegal                                                                                                                                                                                                                                                                                                                      |                              |
| <p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> |                                                                                                                                                                                                                                                                                                                                                                   |                              |
|                                                                                                                                                                                                                                                                                            | <b>Examination</b>                                                                                                                                                                                                                                                                                                                                                | <b>Yes/No/<br/>Uncertain</b> |
| <p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>                                   | <p>The proposed development is for a dwelling house. There are existing dwelling houses in proximity to the site. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants.</p> | <p>No</p> <p>No</p>          |
| <p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>                                                                                                                                               | <p>The proposed dwelling is a single storey dwelling house. The development would generally be consistent with the scale of surrounding developments and would not be exceptional in scale in the context of the existing environment.</p>                                                                                                                        | <p>No</p>                    |



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

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