



An  
Bord  
Pleanála

## Board Order ABP-303860-19

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### Planning and Development Acts, 2000 to 2019

#### Planning Authority: Donegal County Council

**Application** by Donegal County Council for approval under section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including a Natura Impact Statement, lodged with An Bord Pleanála on the 1<sup>st</sup> day of March 2019.

**Proposed Development:** Construction of two storm manholes on the existing storm water lines out falling to the River Finn and located behind the Aldi Supermarket in Ballybofey which will allow for over-pumping of storm water run-off when the level of the River Finn is such that the existing outlets are no longer operational. The works will involve excavation, concrete works, manhole construction, backfilling and associated works. The works will also involve tree and vegetation removal from the flood embankments of the River Finn and a geotechnical investigation on the flood embankments, as amended by the further information received by the Board on the 18<sup>th</sup> day of October 2019.

## **Decision**

**Refuse to Approve the above proposed development based on the reasons and considerations set out below.**

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

### **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) the European Union Habitats Directive (92/43/EEC),
- (b) the Water Framework Directive (2000/60/EC),
- (c) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (d) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (e) the conservation objectives, qualifying interests and special conservation interests for the River Finn Special Area of Conservation (Site Code: 002301), the Foyle and Tributaries Special Area of Conservation (Northern Ireland) (Site Code: UK0030320),
- (f) the policies and objectives of the County Donegal Development Plan 2018-2024, and the Seven Strategic Towns Local Area Plan 2018-2024,

- (g) the nature and extent of the proposed works as set out in the application for approval,
- (h) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (i) the submissions and observations received in relation to the proposed development, and
- (j) the report and recommendation of the inspector appointed by the Board to make a report and recommendation on the matter.

### **Appropriate Assessment**

The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report that the River Finn Special Area of Conservation (Site Code: 002301) and the Foyle and Tributaries Special Area of Conservation (Site Code: UK0030320) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the River Finn Special Area of Conservation (Site Code: 002301) and the Foyle and Tributaries Special Area of Conservation (Site Code: UK0030320), in view of the sites' conservation objectives.

In completing the assessment, the Board considered, in particular, the

- (i) Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the River Finn Special Area of Conservation (Site Code: 002301) and the Foyle and Tributaries Special Area of Conservation (Site Code: UK0030320),
- (ii) Mitigation measures which are included as part of the current proposal,

