



An  
Bord  
Pleanála

## Inspector's Report 247431.

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<b>Development</b>	Craft brewery, new site treatment system with overflow connection to public sewer and ancillary site works.
<b>Location</b>	Kinnegar Road, Rathmullen and Ballybac, Rathmullen, Letterkenny, Co Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	15/51551
<b>Applicant</b>	Rick Levert
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Charles and Catherine Patten
<b>Date of Site Inspection</b>	16 <sup>th</sup> January 2017
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1. The site is located in the townland of Rathmullen and Ballyboe on Kinnegar Road, Rathmullen, Co Donegal. The site is located within a walled garden, part of the grounds of Rathmullan House hotel, the historic building Rathmullan House (regional interest, NIAH) and its designed demesne landscape. The site which adjoins the public road to the west, and a secondary access to the hotel runs along the northern boundary of the walled garden. There is a dwelling adjacent to the east. A development of detached dwellings, adjoins the hotel access to the north. Another development of detached dwellings is located to the south of the walled garden. On the opposite side of Kinnegar road there are single dwellings including what appears to be a former gate lodge. Dwellings on individual sites and in groups are a feature of the general area and many appears to be holiday homes, as they appeared to be unoccupied on the date of inspection.
- 1.2. The site forms part of the rectangular shaped walled garden, the remainder of the walled garden is occupied by log cabins. The walled garden is enclosed by a high masonry wall. Most of the original stone wall remains but some sections have been replaced by blockwork, such as a portion of the northern side. There is a gap in the eastern wall where the entrance to the proposed development is proposed. Trees and bushes adjoin the site on the roadside verge and there are mature trees along the eastern boundary and within the hotel grounds.
- 1.3. Rathmullan is a small settlement on the shore of Lough Swilly. A long beach runs along the shoreline. Rathmullan is an historic town, in particular associated with the Flight of the Earls in 1607.
- 1.4. The site is given as 0.411ha.

## 2.0 Proposed Development

- 2.1. The proposed development is a 628 sq m craft brewery. It is further described as a craft brewery building with 6 car parking spaces, delivery spaces and an external storage area and associated landscaping and ancillary works. The proposed building is 33m x 17m x 10 high. At the northern end it is divided into two storeys with reception area, offices etc., at ground floor and a small visitor area, office and lab., at

first floor. The production area occupies the full (double) volume of the building. The walls and roof of the building will be clad in blue-black grey corrugated metal cladding; windows will be blue black grey aluminium, double glazed.

2.2. An Irish Water – pre connection enquiry feedback form is attached to the application:

Water connection – there is capacity

Wastewater connection – connection is feasible subject to the completion of an Irish Water Capital Project to deliver Infrastructure Upgrade. (Network Extension – project currently not on the Irish Water CIP). If you wish to progress your project based on contributing a portion of the costs towards Irish Water constructing the required infrastructural upgrades...

The Rathmullan Water Treatment Plan currently has sufficient capacity to accommodate the proposed development without the need for any upgrade works.

Water: the proposed site is serviced by a 150mm diameter watermain located on the Kinnegar Road. Based on the information provided, the existing main serving the site has sufficient capacity to accommodate the development without the need for upgrade works.

Waste Water Treatment: There are currently no wastewater treatment facilities provided in Rathmullan. There are two sewage collection networks serving separate parts of the village. Wastewater collected by each network gravitates to a holding tank before discharge to Lough Swilly estuary (Transitional Waters). Wastewater flows directly through these tanks with no treatment provided.

The development proposes to connect to the sewerage network gravitating to the western outfall pipeline, which is located further away from the bathing beach than the eastern outfall.

Rathmullan is included in the Capital Investment Programme under 'Donegal Towns and Villages Sewerage Scheme'. A new WWTP and outfall is proposed under the scheme. Rathmullan is included on the Capital Investment Programme, a new WWTP and outfall is proposed.

Based on the proposed loads. the pe is calculated as 5.

It is considered that the discharge from the proposed development will have an imperceptible impact on water quality given the dilution available in the Lough Swilly

Estuary, and therefore would not result in a deteriorated classification or status of the receiving waters.

No untreated waste water will be accepted until the Rathmullan WwTP works are completed as part of the Donegal Towns and Villages Sewerage Scheme.

The waste water sewer network in Rathmullan is capable of accommodating the estimated flows outlined in the pre-connection enquiry form without the need for any upgrade works. From a review of the existing network the closest connection point available for the site is approximately 75m away.

2.3. A NIS, prepared by Scott Cawley, is attached to the application it includes:

Surface water will first pass through a full retention petrol interceptor prior to discharge to the drainage ditch located along the western boundary, from there it will enter the existing surface water drainage network and will discharge to Lough Swilly.

Waste water generated, which will include foul effluent and some by-products of the brewing process such as weak wort, will be fully treated on-site in accordance with EPA CoP (2009) prior to discharge to the existing sewer located on Kinnegar Road c75 south of the proposed development site.

On site treatment – balancing tank, sedimentation tank and anaerobic and aerobic tanks to a sand polishing filter from where it will be transferred to the existing sewer, discharging c300m south west of the pier in Rathmullan. The system is designed for a population equivalent (PE) of 5.

2.4. The potential for impact in the absence of mitigation, cannot be screened out.

Notwithstanding that the collection and treatment of surface waters during and post construction and the treatment of waste water will ensure that no significant impacts on Lough Swilly SAC SPA will occur. The only potentially significant impacts to the two relevant European sites, in the absence of mitigation, arise from potential construction-related surface water discharges from the proposed development. All other potential impacts on the two relevant European sites may be excluded.

2.5. Accidental pollution incident during construction:

In the absence of mitigation accidental spillages of oils, cement or other potential pollutants, during construction works could potentially be released into the existing surface water drainage network and ultimately discharged to Lough Swilly.

- 2.6. In relation to Lough Swilly SAC the qualifying interest habitats which would be potentially at risk from an accidental pollution incident, if it was of sufficient magnitude and duration to significantly affect water quality in the estuary are:

Estuaries

Coastal lagoons

Atlantic salt meadows, and

Otter

The habitat Old sessile oak woods is found on terrestrial land above high tide line and would be unlikely to be impacted.

Impacts are unlikely, short to long term, locally to internationally significant, dependent on the magnitude of the pollution event.

- 2.7. In relation to Lough Swilly SPA the special conservation interest (SCI) species utilise the coastal and estuarine habitats in Lough Swilly for feeding and/or roosting. These SCI species would be vulnerable to an accidental pollution incident, either directly through direct contact with oil or other polluting chemicals or indirectly e.g. by affecting the habitats and food supply on which they rely for feeding and/or roosting within the area; if it was of sufficient magnitude and duration to significantly affect water quality in Lough Swilly.

Impacts are unlikely, short to long term, locally to internationally significant, dependent on the magnitude of the pollution event.

- 2.8. Mitigation measures to ensure an absence of adverse effects on the integrity of European sites: specific and detailed mitigation measures have been proposed to address the potential adverse effects on site integrity from the proposed development:

To address adverse impacts on water quality: a project-specific Construction Environmental Management Plan (CEMP) will be prepared and will be implemented by the appointed contractor during the construction of the proposed development.

The CEMP will cover all potentially polluting activities and will include mitigation measures for critical elements such as storage and handling of potentially polluting materials. All personnel working on the sites will be trained in the implementation of

emergency procedures with respect to water quality and protection. The CEMP will be formulated in consideration of best international practice (including a list of documents which is given).

- 2.9. The construction contractor will be required to implement the specific mitigation measures, all of which will be set out in the CEMP, for release of hydrocarbons, polluting chemicals, sediment/silt and contaminated waters control. Including a list of specific measures which are set out.
- 2.10. There will be no adverse effects on the integrity of European sites arising from the proposed development in combination with other plans and projects.

There is no habitat loss or potential for cumulative habitat loss. Some coastal habitats for which the European Sites in Lough Swilly are designated are failing to meet favourable conservation status. For some of these water pollution is considered a threat ranked as of high importance.

The water quality of the Lough Swilly coastal waterbody is classified as unpolluted. The water quality of the Swilly Estuary is classified as intermediate. Currently there are no wastewater treatment facilities in Rathmullan. Untreated collected waste water flows directly through holding tanks into Lough Swilly estuary transitional waterbody. A new WWTW is proposed for the general locality as part of the Capital Investment Programme.

There is potential for cumulative impacts on water quality within the two relevant European sites arising from the construction related potential impacts primarily potential construction related surface water discharges from the proposed development, if they occurred in-combination with other plans or projects on-going at the same time as the proposed development. However, the detailed and specific mitigation measures set out fully address the potential impacts such that it will not give rise to significant impacts either alone or in combination with other potential impact sources.

#### Conclusion

The only potentially significant risks to the two relevant European sites in the absence of mitigation arise from potential construction related surface water discharges. With full implementation of the mitigation measures outlined in the NIS this risk will be avoided. There will be no risk of adverse effects on qualifying interest

habitats or species, not the attainment of specific conservation objectives. #the constitutive characteristics of the two European sites concerned that are connected to the qualifying interests for which the sites have been designated will not be significantly impacted.

- 2.11. The documentation on file includes a response from the first party to observations/objections, which includes:
- 2.12. Smells - The new brewery will be equipped with a vapour condensing unit which will extract all odours emanating from the Brewhouse, also recovering heat energy. All raw materials are stored inside in sealed packaging in highly controlled environments. They emit no odours. Local dairy farmers use the spent grains from the brewing process as a high quality cattle feed. They are immediately removed from the site after each brewing cycle. They are not stored on-site and therefore do not constitute a potential source of odours. Their handling of these grains has been approved and is regularly inspected by the Dept of Ag. Waste hops, yeast and wort will be side-streamed to a closed, subterranean holding tank and will not emit any odours to the environment. The proposed development will not have any odour impact.
- 2.13. Noise – all machinery such as air or refrigeration compressors, steam generator etc will be housed in spaces with sound-proofing insulation and will have no noise impact outside the brewery. The process produces little or no noise. The packaging process will not produce noise perceptible outside the building. The proposed development will not have any noise impact.
- 2.14. Water and Waste Water – they have had lengthy discussions with Irish Water with regard to water supply and wastewater management. The existing infrastructure is suitable for dealing with the loads they are proposing. The water supply for the existing brewery already comes from the same local mains system serving the site. The only alteration needed to the existing infrastructure is a 75m pipe from the site to the nearest sewer connection point. They will carry this out according to Irish Water specifications and direction.
- 2.15. Traffic – Kinnegar road is not a nature walk. It is a mixed purpose carriageway with residential commercial agricultural and recreational users. The first parties are sensitive to the character and do not intend to do anything that would negatively

impact on its recreational value. The impact on Kinnegar Road will be negligible: any and all public access will be via the existing gates and carpark to Rathmullan House. They will walk from there through the grounds to the brewery and create no additional traffic on Kinnegar road. For other access such as employees, and goods in and out, the proposed development will use the existing service entrance to Rathmullan House. The accompanying engineering report states that the proposed development will only generate 6 daily arrivals and departures, a negligible increase with no impact on efficiency or safety. Duffy Express Freight Newtowncunningham handle the main logistics needs, serving the Rathmullan area with a rigid lorry three times a week – Mondays, Wednesdays and Fridays, delivering goods both in and out at the same time. Rigid lorries already deliver to Rathmullan House via the service entrance, the planned development represents little or no additional traffic activity over existing. At peak production they anticipate 6-8 employees at any given time, the majority live within a 1km radius, and the company will encourage them to walk or cycle to work.

- 2.16. Vermin – they are required to maintain the highest standards of hygiene. Inspections by EHO and Department of Agriculture are carried out regularly to comply with EU and Irish regulations. Any indication of vermin would lead to punitive action.

They have developed, implemented and maintain a comprehensive HACCP (Hazard analysis and critical control points plan). They work together with outside experts to update and improve their procedures. To date, everything they have implemented with regard to hygiene and pest control has been preventative. They have yet to experience any evidence of vermin problem in or around their current facility.

- 2.17. The natural habitat / Local Environment – they commissioned the environmental consultants Scott Cawley to prepare a NIS.

Trees – No trees will be felled or damaged. They intend to reinstate the original walled garden character. Working with professional horticulturalists they are developing an extensive garden programme which will include planting trees to provide additional screening and privacy, as well as growing some of the ingredients they intend to use for special Kinnegar beers.

Siting and proximity to neighbouring dwellings – the siting on the eastern border has been planned to avoid impinging on any adjoining properties. It does not overlook



any property. It is lower and 50m to 70m from the dwellings across Kinnegar Road, in between there is an open green and a 3m high stone wall with some existing trees, a shough, public roadway and 3m high hedge.

Enhancing existing context in Rathmullan – Rathmullan House is one of the most highly regarded food, hospitality and tourism businesses in the northwest of Ireland. As another highly regarded artisan food production business they see the character of the proposed development as a natural extension to the current character of Rathmullan House and its grounds. It represents a substantial improvement on the existing visual quality of the site on its surroundings. They have developed an aesthetically pleasing design which adopts elements of a local architectural vernacular and highly sensitive to its surroundings. They provide direct and indirect employment to a severely disadvantaged rural community.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided, 27/9/2016, to grant permission subject to 13 conditions, including:

2: No retail sale of alcohol is permitted from the craft brewery hereby permitted.

3: A vapour condensing system shall be installed within the brewery to eliminate the release of steam vapour from the wort boiling process to the atmosphere. The vapour condenser shall not incorporate a vapour stack that vents to the environment but rather shall consist of a closed system as described in the report from Banke Process Solutions submitted to the Planning Authority on 19/7/16.

4: Hours of operations shall be confined to 9am-5pm Monday to Friday.

8 (a): A wastewater treatment system (independently certified by IAB, BSI or ISO EN, suitable for a population equivalent of 50 no. persons shall be installed, operated and maintained in strict accordance with the supplier's instructions.

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

(c): The wastewater treatment system shall be located at least 31m from third party, neighbouring, inhabited development.

(d): The wastewater treatment system shall be fitted with activated carbon scrubbers or filters in order to mitigate against the potential for odour nuisance.

(e): All effluent shall be conveyed from the development to the wastewater treatment system via pipework measuring 100-110mm in diameter, and shall achieve a minimum fall of 1:40 to 1:60 depending on the material used.

(f): All contaminated waste run-off on site (NB – not inclusive of surface/storm water) shall be directed to a sealed storage tank and thereafter to the effluent treatment system for treatment prior to discharge to the public sewer.

10: All mitigation measures set out in the Natura Impact Statement accompanying the planning application shall be implemented in full.

12: Visibility splays of 2.4m x 70m to be provided at the road entrance.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- Appropriate Assessment report – subject to mitigation – no adverse impact.
- FI request – 21/1/2016 – 4 points:
  - (1) details re. visitor area;
  - (2) (a) revised layout showing relocation of wastewater treatment system such that it is a minimum of 31 metres from any third party dwelling and (2) (b) proposals to reduce noise and odour nuisance from the wastewater treatment system;
  - (3) report detailing potential noise at site boundaries;
  - (4) report on operation and efficacy of the proposed vapour condensing unit and likely odour nuisance.

- Further planning report following further information submission – drawing no. 1503/02 Rev D provides for a minimum separation distance between the proposed treatment system and any third party dwelling, as recommended by EHO. The initially proposed infiltration area for wastewater has been omitted, with treated waste now being directed straight to the public sewer.

### 3.2.2. Other Technical Reports

3.3. CFO – conditions

3.4. EHO - conditions

### 3.5. **Prescribed Bodies**

3.6. Irish Water – Construction of a craft brewery, new sewage treatment plant with outflow connection to public sewer and all ancillary site works. Conditions:

1: Where the applicant proposes to connect directly or indirectly to a public water/wastewater network operated by Irish Water, the applicant must sign a connection agreement with Irish Water prior to the commencement of the development and adhere to the standards and conditions set out in that agreement. With regard to the sewer connection a plan will also need to be submitted showing gradients, pipe sizes and possible pumping arrangements together with invert level details of existing public manhole and proposed new manholes.

2: In the interests of Public Health and Environmental Sustainability, the Irish Water Infrastructure capacity requirements and proposed connections to the Water and Waste Water Infrastructure will be subject to the constraints of the Irish Water Capital Investment Programme.

### 3.7. **Third Party Observations**

3.8. Objectors –

3.9. Third party observations have been received from

John & Sheila Patton,

Catherine & Charles Patton,

Nellie Gallagher,  
Dr Adrian Darragh,  
Kinnegar Close Residents Group c/o James McCallum,  
Julia McIvor,  
David and Isabel Shufflebottom,  
Paul Artherton,  
Sean Connolly, and  
Francis A O'Connor

3.10. The issues raised include:

Proximity of third party's entrance, less than 50 yards, from the proposed development.

More suited to an industrial estate.

Impact on tourist rentals.

Water pressure is poor.

Narrow road.

Possible hazardous material.

Operating hours.

Possible phase 2, the nature and extent of the visitor facility.

The majority of residents were unaware of the application – holiday homes.

Possible by product use as animal feeds – no details.

3.11. The response from 1<sup>st</sup> party has been referred to earlier in this report.

3.12. Further objections received following the further information submission include:

Reference to a previous refusal 04/7667.

RL3361 – Killarney Brewing Co not exempted – an objection to the planning application states that they are frequently affected by odours.

Concerned that the entrance on Kinnegar Road will be used for access and parking.

### 3.13. Further reports

3.14. Senior Executive Technician – conditions re. waste water, stored in sealed storage tank, etc

3.15. HSE – conditions re wastewater.

## 4.0 Planning History

04/7667 – Mr & Mrs Wheeler erection of dwelling with detached garage, withdrawn.

PP4459 – pre planning discussions in respect of the proposed development.

## 5.0 Policy Context

### 5.1. Development Plan

**County Donegal Development Plan 2012-2018** is the operative plan.

Relevant provisions include:

ED-P-2 - It is a policy of the Council that any economic development proposal that meets the locational policies set out hereunder (policies ED-P-3 – ED-P-15) must also comply with the criteria set out in Policy ED-P-16 and be consistent with the proper planning and sustainable development of the area.

ED-P-3 - It is a policy of the Council to permit economic development proposals involving an industrial building or process (as defined in Art 5 of the 2001 Planning Regulations) within the defined settlements on land zoned for such use in a local plan or specified in a settlement framework in this Plan subject to any environmental considerations and policy.

ED-P-2. - Industrial development will also be permitted in an existing industrial/ employment area within settlements provided the proposal is of a scale, nature and form appropriate to the location and complies with policy ED-P-2. Elsewhere within the settlements, proposals for industrial use (not comprising light industrial use) will be permitted only in Tier 1 and Tier 2 settlements and where it can be demonstrated that there is no available zoned land or land on an existing industrial area; that the

proposal is for a firm rather than speculative proposal; and that the development would make a substantial contribution to the economy of the area. Development involving Industrial buildings or processes will not be permitted outside the boundary of settlements in the open countryside unless related directly to a site specific product resource and the development proposed could not be located in a settlement in line with this policy.

ED-P-16- It is a policy of the Council that any proposal for economic development use, in addition to other policy provisions of this Plan, will be required to meet all the following criteria; it is compatible with surrounding land uses existing or approved; (b) it does not harm the amenities of nearby residents; (c) there is existing or programmed capacity in the water infrastructure (supply and/or effluent disposal) or suitable developer-led improvements can be identified and delivered; (d) the existing road network can safely handle any extra vehicular traffic generated by the proposed development or suitable developer-led improvements are identified and delivered to overcome any road problems; (e) adequate access arrangements, parking, manoeuvring and servicing areas are provided in line with standards set out in Appendix B or as otherwise agreed in writing with the planning authority; (f) it does not create a noise nuisance; (g) it is capable of dealing satisfactorily with any emission(s); (h) it does not adversely affect important features of the built heritage or natural heritage including Natura 2000 sites; (i) it is not located in an area at flood risk and/or will not cause or exacerbate flooding; (j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity; (k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view; (l) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape (m) it does not compromise water quality nor the programme of measures contained within the North Western River Basin (NWIRBD) Management Plan 2009 - 2015.

Rathmullan is a fourth tier settlement, an historic town with a zone of archaeological protection.

The County Development Plan includes settlement plans for smaller settlements. The site is located within the boundaries of Rathmullan settlement plan. No zoning objectives apply to the settlement.

## 5.2. **Natural Heritage Designations**

Lough Swilly SAC (Site Code 002287) and Lough Swilly SPA (Site Code 004075), are located c290m from the site.

## 6.0 **The Appeal**

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

The grounds of appeal are set out under the headings

- building type and location
- traffic and parking
- loss of visual amenity
- smells
- infrastructure
- conclusion

### **Building Type and Location**

Kinnegar road is residential in nature, with dwellings within Kinnegar Close and the nearby Sycamores and Cottages developments.

The area is scenic and attractive. The Loop road is popular for walking and cycling. It is also used for access to Rathmullen and Kinnegar beaches.

04/7667 to construct a dwelling was not approved and conditions including a height restriction to a storey and a half applied. These constraints have helped to create an attractive environment. The brewery contravenes these criteria.

Scale and nature is inappropriate, floor area 628 sqm, and height 10m, and proximity to nearby dwellings.

Being shoe horned into part of the former orchard of Rathmullan House – buildings and garden of regional significance.

Building design is featureless.

The current location on family lands at Aughavannon offers room for further expansion.

It has been stated in a press release that the business is moving to Letterkenny.

### **Traffic and Parking**

The car park at the hotel is frequently congested. The traffic management report made an assumption that the car park and associated facilities would always be available.

The third party is concerned that parking of cars and coaches around Kinnegar Road would occur if the brewery continues to expand. They don't accept that additional traffic movements would be negligible.

### **Visual amenity**

The site is close to 3<sup>rd</sup> party houses and will cause loss of privacy and peace.

Visual impact - It is designed to resemble a barn, however it has no visual connection with either Rathmullan House or the surrounding houses.

The design is not in keeping with the residential and holiday housing it will look out of place surrounded by low level housing. Loss of context to the setting of Rathmullan House.

### **Smells**

There is potential for odours to be created during the boiling process and when disposing of waste. The report on condensation filtration cites a number of breweries which are currently utilising the equipment including the Killarney Brewing Company. The report could not be considered as sufficiently independent. A submission from a



resident, cited in his report, opposite the Killarney Brewing Company, refers to being frequently affected by odours.

It was not possible to site the WWT facility 31 m from the nearest third party dwelling. It had to be moved nearer the facility. The EHO stated that there was a potential for foul odours to pervade the building, 3<sup>rd</sup> parties are concerned that these odours will cause annoyance to nearby residents.

3<sup>rd</sup> parties are grandparents whose children frequently play in the front garden opposite the site, they are concerned that the facility may attract rodents or other vermin.

### **Infrastructure**

There is no sewage treatment plant in Rathmullan. On-site treatment is proposed. The effluent will discharge to a holding tank, where it will mix and be contaminated with untreated wastewater and be discharged into L Swilly, an SAC and SPA. The development should not be considered until the upgraded public sewage system has been installed and is operational.

The junction of Kinnegar Road with the R247 is hazardous. They are concerned that slow moving vehicles crossing the junction would be a traffic hazard.

The Council previously opposed the creation of a private driveway and they believe that the additional traffic associated with the development would have greater implications for pedestrian safety.

Kinnegar road (L5442) is not suitable for year round industrial and visitor traffic. There is only a short length of footpath, which ends opposite the site. A single streetlight is totally inadequate.

## **6.2. Applicant Response**

The first party has not responded to the grounds of appeal.

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

6.4. The Planning Authority has responded to the grounds of appeal:

Referring to the planner's report

The development is located within the settlement envelop. Appendix A of CDP 2012-2018. The development fully complies with the Council's policies for economic development particularly ED-P-4 and 16.

Technical reports indicate that the development will not give rise to any significant impacts in terms of noise and odour.

Visual – it is screened by an existing high stone wall – there would be no significant visual impact and the development would have no impact on the setting of Rathmullan House.

## 7.0 **Assessment**

7.1. The issues which arise in relation to this appeal are appropriate assessment, natural heritage, the principle of the development, residential amenity, visual amenity and traffic and the following assessment is dealt with under these headings.

### 7.2. **Appropriate Assessment**

7.3. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment.

7.4. To facilitate the Board in carrying out this function the applicant has submitted a NIS, which accompanied the application, prepared by Scott Cawley Consultants. This includes Stage 1 Screening and Stage 2 Appropriate Assessment in relation to an accidental pollution incident during construction.

7.5. The planning authority carried out appropriate assessment of the project. The assessment includes:

- Loss of habitat area – none, the site is not located within the SPA SAC.
- Fragmentation – NA.
- Disturbance – given the physical separation between the proposed development site and the SAC/SPA no disturbance effects are envisaged.
- Species population density – subject to the full implementation of the mitigation measures set out in S 6.2.1 of the submitted NIS the PA is satisfied that the proposed development would not have an adverse impact on the population density of protected species.
- Water resource – having regard to the comments of Irish Water in respect of the proposed development, it is not considered that the proposed development would have any significant impact on water resources.
- Water quality - having regard to the proposal to ‘pre-treat’ effluent on site it is not considered that the proposed development would have any significant impact on water quality in the area (NB – matters relating to final effluent quality will be subject to agreement with Irish Water).

The planning authority determined that the proposed development would not adversely affect the integrity of a European Site, namely Lough Swilly SAC and Lough Swilly SPA.

7.6. I am satisfied that the Board, as the competent authority, has sufficient information to carry out its obligations under the Habitats Directives and implementing legislation.

#### 7.7. Screening

The proposed development is a 628 sq m craft brewery, new site treatment system with overflow connection to public sewer and ancillary site works.

The Lough Swilly coastal waterbody is located c290m east of the site. There are no watercourses or surface water features within the site but a dry drainage channel runs along the public road.

European sites considered in the NIS screening, supplied with the application, are: SAC’s Lough Swilly SAC, Leannan River SAC, Ballyarr Wood SAC, North Inishowen SAC, Mulroy Bay SAC, Ballyhoorisky Point to Fanad Head SAC and SPA’s Lough

Swilly SPA, Lough Fern SPA and Horne Head to Fanad Head SPA. There are no other European sites with potential to be affected by the proposed development.

The SAC's: Leannan River SAC, North Inishowen SAC, Mulroy Bay SAC and Ballyhoorisky Point to Fanad Head SAC, were screened out in the NIS; although a potential linkage exists no significant effects are predicted due to the substantial estuarine and marine water buffer that Lough Swilly Estuary transitional waterbody and Lough Swilly coastal waterbody represent.

The SAC: Ballyarr Wood SAC was screened out in the NIS due to distance and the absence of a hydrological or other linkage.

The SPA's: Lough Fern SPA and Horne Head to Fanad Head SPA were screened out in the NIS due to the substantial estuarine and marine water buffer that Lough Swilly Estuary transitional waterbody and Lough Swilly coastal waterbody represent.

- 7.8. In my opinion the Board can determine that likely significant effects on the SAC's: Leannan River SAC, Ballyarr Wood SAC, North Inishowen SAC, Mulroy Bay SAC, Ballyhoorisky Point to Fanad Head SAC and the SPA's: Lough Fern SPA and Horne Head to Fanad Head SPA can be screening out.

Significant effects on the Lough Swilly SAC and Lough Swilly SPA are considered likely in the NIS but only in relation to construction phase surface water run-off.

In relation to Lough Swilly SAC the NIS states:

1. Surface waters generated during construction could carry silt, oils or other contaminants into this European site via the existing surface water drainage network, which most likely discharges to the Lough Swilly. Following the precautionary approach, significant effects on this European site, in the absence of mitigation, cannot be ruled out in view of the site's conservation objectives.

2 Surface waters generated during the operational phase will be collected and transferred to the existing drainage ditch (sheogh), located along the western boundary of the site, via a petrol interceptor. As a result, there will be no significant impacts to this European site arising from its operation with regard to the management of surface water runoff.

3 Waste water generated from the proposed development will be treated onsite, prior to being transferred to the existing sewer network and discharged to Lough Swilly

Estuary. Treatment will involve wastewater being transferred to a balancing tank, sedimentation tank and anaerobic and aerobic tank and then passed through an onsite sand polishing filter (changes to the on-site treatment system were made following the further information request). As a result, there will be no significant impacts to the European site arising from its operation with regard to the management of waste water.

- 7.9. In relation to Lough Swilly SAC the NIS states that the foregoing considerations apply and in addition, (as item 4), it states that there is no potential risk of noise or other disturbance impacts to the Special Conservation Interest birds due to the terrestrial land buffer that exists between the subject site and the European site. The lands located within the site were not considered suitable inland feeding habitat, dominated by rough/wet grassland encroached by bramble and nettle scrub, for any of the Special Conservation Interest bird species.
- 7.10. In relation to the foregoing item 3, the Board should note that Irish Water have stated in a pre-connection enquiry feedback form, which is attached to the application, that:
- The Rathmullan Water Treatment Plan currently has sufficient capacity to accommodate the proposed development without the need for any upgrade works.
  - There are currently no wastewater treatment facilities provided in Rathmullan. Wastewater collected by two sewage collection networks serving separate parts of the village network gravitates to a holding tank before discharge to Lough Swilly estuary (Transitional Waters). Wastewater flows directly through these tanks with no treatment provided.
  - The development proposes to connect to the sewerage network gravitating to the western outfall pipeline, which is located further away from the bathing beach than the eastern outfall.
  - Rathmullan is included in the Capital Investment Programme under 'Donegal Towns and Villages Sewerage Scheme'. A new WWTP and outfall is proposed under the scheme. Rathmullan is included on the Capital Investment Programme a new WWTP and outfall is proposed.
  - The proposed development has a pe of 5.

- It is considered that the discharge from the proposed development will have an imperceptible impact on water quality given the dilution available in the Lough Swilly Estuary, and therefore would not result in a deteriorated classification or status of the receiving waters.
- No untreated waste water will be accepted until the Rathmullan WwTP works are completed as part of the Donegal Towns and Villages Sewerage Scheme.
- The waste water sewer network in Rathmullan is capable of accommodating the estimated flows outlined in the pre-connection enquiry form without the need for any upgrade works.

7.11. Irish Water responded to a referral of the application proposing the attachment of conditions.

It should be noted that the NIS states that the system is designed for a population equivalent (PE) of 5.

In relation to the projected loading it should be noted that the Irish Water – pre connection enquiry feedback form states that based on the proposed loads the pe is calculated as 5.

The report of the Senior Executive Technician – states that the applicant is to apply for a trade effluent licence, under S16<sup>1</sup> of the Water Pollution Act 1977/90 to Irish Water.

The HSE report to the planning authority includes in their recommended conditions re. wastewater, that a wastewater treatment system, suitable for a population equivalent of 50 no. persons must be installed.

The planning authority's decision reflects the latter advice and condition 8 (a) as drafted states: a wastewater treatment system (independently certified by IAB, BSI or ISO EN, suitable for a population equivalent of 50 no. persons shall be installed, operated and maintained in strict accordance with the supplier's instructions.

The discharge requires a trade effluent licence.

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<sup>1</sup> Under Section 16 of the Local Government (Water Pollution) Act 1977 (as amended), an individual or business may not discharge a trade effluent to the sewer except in accordance with a licence issued under these regulations.

In my opinion in view of the low loading, and the on-site treatment proposed, which is part of the design of the proposed development, the Board can determine that likely significant effects on the Natura sites: Lough Swilly SAC and Lough Swilly SPA from waste water generated from the proposed development, can be screening out.

- 7.12. In relation to the foregoing item 2, the NIS states that surface waters generated during the operational phase will be collected and transferred to the existing drainage ditch (sheogh), located along the western boundary of the site, via a petrol interceptor; as a result, there will be no significant impacts to this European site arising from the operational phase of the proposed development with regard to the management of surface water runoff.
- 7.13. I accept that surface waters will discharge via a petrol interceptor, as stated in the NIS and as is best practice, and that this is part of the design of the design of the proposed development; although the location of the petrol interceptor or other details have not been given; and therefore that the Board can determine that likely significant effects on the Natura sites: Lough Swilly SAC and Lough Swilly SPA from the operational phase of the proposed development, with regard to the management of surface water runoff can be screened out.
- 7.14. In relation to the foregoing item 1, the NIS states that surface waters generated during construction, could carry silt, oils or other contaminants into the European sites via the existing surface water drainage network, which most likely discharges to the Lough Swilly. Following the precautionary approach, significant effects on this European site, in the absence of mitigation, cannot be ruled out in view of the site's conservation objectives. Stage 2 appropriate assessment of this potential impact is part of the NIS, which proposes detailed mitigation. In this regard proposals to ameliorate the impact are not put forward as an intrinsic part of the works, but as mitigation, which can only be considered as part of stage 2 Appropriate Assessment.

7.15. Stage 2 Appropriate Assessment

The relevant European sites are Lough Swilly SAC (Site Code 002287) and Lough Swilly SPA (Site Code 004075).

In the absence of mitigation accidental spillages of oils, cement or other potential pollutants, during construction works could potentially be released into the existing surface water drainage network and ultimately discharged to Lough Swilly.

The qualifying interest habitats and species of the SAC are:

Estuaries

Coastal lagoons

Atlantic salt meadows,

Molinia meadows on calcareous, peaty or clayey-silt-laden soils

Old sessile oak woods with Ilex and Blechnum in the British Isles Estuaries, and

Otter

The habitat Old sessile oak woods is found on terrestrial land above high tide line and would be unlikely to be impacted.

Impacts are unlikely, short to long term, locally to internationally significant, dependent on the magnitude of the pollution event.

In relation to Lough Swilly SPA the special conservation interest species are.

Great Crested Grebe

Grey Heron

Whooper Swan

Greylag Goose

Shelduck

Wigeon

Teal

Mallard

Shoveler

Scaup

Goldeneye

Red-breasted Merganser

Coot

Oystercatcher

Knot



Dunlin  
Curlew  
Redshank  
Greenshank  
Black-headed Gull  
Common Gull  
Sandwich Tern  
Common Tern  
Greenland White-fronted Goose and  
Wetlands and Waterbirds

These species would be vulnerable to an accidental pollution incident, either directly through direct contact with oil or other polluting chemicals or indirectly e.g. by affecting the habitats and food supply on which they rely for feeding and/or roosting within the area; if it was of sufficient magnitude and duration to significantly affect water quality in Lough Swilly.

The NIS proposes as mitigation that a project-specific Construction Environmental Management Plan (CEMP) will be prepared and will be implemented by the appointed contractor during the construction of the proposed development.

The NIS states that specific mitigation measures, which will be set out in the CEMP, for release of hydrocarbons, polluting chemicals, sediment/silt and contaminated waters control will include:

- Specific measures to prevent the release of sediment into the drainage ditch located along the western boundary of the proposed development site, during the construction work. These measures, which will be outlined in the CEMP, include, but are not limited to, the use of silt control measures (e.g. sand bag walls, silt fences, silt curtains, settlement lagoons and/or filter materials etc).
- Provision of exclusion zones and barriers (e.g. sand bag walls or silt fences), between earth works, stockpiles and temporary surfaces to prevent sediment washing into the existing drainage systems and/or overland into the receiving environment.

- Weather conditions will be taken into account when planning construction activities to minimise risk of run-off from the site.
- Pouring of cementitious materials, if required for the works, adjacent to surface water drainage features, or drainage features connected to same, will only be carried out in the dry. Pumped concrete will be monitored to ensure no accidental discharge. Mixer washings and excess concrete will not be discharged to existing surface water drainage systems. Concrete washout areas will be located remote from any surface water drainage features to avoid accidental discharges to watercourses.
- No storage of hydrocarbons or any polluting chemicals will occur within 50m of the surface water network and re-fuelling of plant will not occur within 50m of the surface water network. Any fuels or chemicals on site will be stored within double sealed tanks with bunds to prevent any seepage of same into groundwater.
- Dedicated fuel filling points will be set-up with all plant to be brought to these points for filling. All fuels and chemicals on site will be clearly marked.
- Implementation of response measures to potential pollution incidents.
- Emergency procedures and spillage kits will be available and construction staff will be familiar with emergency procedures in the event of accidental fuel spillages.
- All waters shall be drained through appropriate filter material prior to discharge from the construction site.
- The removal of any contaminated land from the proposed development site, if required, and transportation to an appropriate licenced facility shall be carried out in accordance with the Waste Management Act, best practice and guidelines for same.
- A watching brief and discovery procedure for contaminated material, if required, will be prepared and adopted by the appointed contractor prior to excavation works commencing on site. These documents will detail how potentially contaminated material will be dealt with during the excavation phase.

- Implementation of measures to minimise waste and ensure correct handling, storage and disposal of waste (most notably wet concrete and asphalt).

These measures will address potential adverse impacts on water quality.

In relation to in-combination effects, the NIS concludes that there will be no adverse effects on the integrity of European sites arising from the proposed development in combination with other plans and projects. There is potential for cumulative impacts on water quality within the two relevant European sites arising from the construction related potential impacts, primarily potential construction related surface water discharges from the proposed development, if they occurred in-combination with other plans or projects on-going at the same time as the proposed development. However, the detailed and specific mitigation measures set out fully address the potential impacts such that it will not give rise to significant impacts either alone or in combination with other potential impact sources.

The NIS concludes that the only potentially significant risks to the two relevant European sites in the absence of mitigation arise from potential construction related surface water discharges. With full implementation of the mitigation measures outlined in the NIS, this risk will be avoided. There will be no risk of adverse effects on qualifying interest habitats or species, not the attainment of specific conservation objectives. The constitutive characteristics of the two European sites concerned that are connected to the qualifying interests for which the sites have been designated will not be significantly impacted

#### **7.16. Conclusion of Appropriate Assessment**

7.17. I am satisfied that the proposed mitigation adequately addresses the potential adverse impacts on water quality and consequent potential impacts on the special conservation interest species of the SPA and the qualifying interest habitats and species of the SAC and in my opinion the Board can determine that the proposed development, subject to the mitigation proposed, would not adversely affect the integrity of the European sites: Lough Swilly SAC (Site Code 002287) and Lough Swilly SPA (Site Code 004075), in view of their conservation objectives.

#### **7.18. Natural Heritage**

The NIS includes a survey of the subject site which refers to the presence of the invasive species Winter Heliotrope *petasites fragrans*, within the site. The CEMP should include a method statement to ensure that this invasive species is eradicated from the site, that it is not accidentally carried off site, and that soil which is removed from the site is treated to ensure that the invasive species is not transferred to other locations.

#### 7.19. Principle of the Development

The site is located within the boundary of the settlement of Rathmullan as defined in the County Development Plan.

Policy ED-P-3 of the County Development Plan states that it is a policy of the Council to permit economic development proposals involving an industrial building or process (as defined in Art 5 of the 2001 Planning Regulations) within the defined settlements on land zoned for such use in a local plan or specified in a settlement framework in this Plan subject to any environmental considerations and policy.

There is no objection in principle to the proposed development.

#### 7.20. Residential Amenity

Residential amenity is the subject of many of the concerns expressed in the grounds of appeal. It is stated that Kinnegar road is residential in nature; that the area is scenic and attractive; that the road is popular for walking and cycling and is also used for access to Rathmullen and Kinnegar beaches. There is concern that the process will emit smells and noise and attract vermin and will lead to loss of privacy and peace.

The first party has not responded to the grounds of appeal but did respond to similar objects to the application at planning authority stage, including that:

Re smells:

The new brewery will be equipped with a vapour condensing unit which will extract all odours emanating from the Brewhouse, also recovering heat energy. All raw materials are stored inside in sealed packaging in highly controlled environments.

They emit no odours. Local dairy farmers use the spent grains from the brewing process as a high quality cattle feed. They are immediately removed from the site after each brewing cycle. They are not stored on-site and therefore do not constitute a potential source of odours and that the proposed development will not have any odour impact.

Re. Noise:

All machinery such as air or refrigeration compressors, steam generator etc will be housed in spaces with sound-proofing insulation and will have no noise impact outside the brewery. The process produces little or no noise. The packaging process will not produce noise perceptible outside the building. The proposed development will not have any noise impact.

Re. Vermin:

They are required to maintain the highest standards of hygiene. Inspections by EHO and Department of Agriculture are carried out regularly to comply with EU and Irish regulations. Any indication of vermin would lead to punitive action. They have developed implemented and maintain a comprehensive HACCP (Hazard analysis and critical control points plan). They work together with outside experts to update and improve their procedures. To date everything they have implemented with regard to hygiene and pest control has been preventative. They have yet to experience any evidence of vermin problem in or around their current facility.

I am satisfied that there will be little impact on any adjacent dwellings from smell or noise or vermin and that the limited additional traffic which will be generated in the context of the service traffic accessing the hotel, will neither be significant in terms of the road capacity, or the impact on adjacent residential properties.

Other than traffic accessing the premises, it is difficult to see how the proposed development would impact on privacy as it will be located within an enclosed site where it will not overlook any dwelling.

#### 7.21. **Visual Amenity**

Concerns have been expressed in the grounds of appeal regarding visual amenity: that scale and nature is inappropriate, with a floor area 628 sqm and a height 10m,

and in proximity to nearby dwellings; that the building design is featureless; that it is being shoe horned into part of the former orchard of Rathmullan House: buildings and garden of regional significance; that it is designed to resemble a barn, but has no visual connection with either Rathmullan House or the surrounding houses; that there will be a loss of context to the setting of Rathmullan House; and that the design is not in keeping with the residential and holiday housing such that it will look out of place surrounded by low level housing.

The first party has not responded to the grounds of appeal but responded to similar objects to the application at planning authority stage, including that: no trees will be felled or damaged. They intend to reinstate the original walled garden character. Working with professional horticulturalists they are developing an extensive garden programme which will include planting trees to provide additional screening and privacy, as well as growing some of the ingredients they intend to use for special Kinnegar beers; that the siting on the eastern border has been planned to avoid impinging on any adjoining properties, it is lower and 50m to 70m from the dwellings across Kinnegar Road, in between there is an open green and a 3m high stone wall with some existing trees a shough public roadway and 3m high hedge.

The site is within a walled garden where it will be separated from nearby houses by some considerable distance and by the 3m wall which surrounds the former orchard. In my opinion there is no undue visual impact on adjacent residential properties.

The site is separated from Rathmullan House by a modern dwelling within the hotel grounds. In my opinion the siting does not unduly impact on the designed landscape at Rathmullan House or on the protected structure.

The proposed building is 33m x 17m x 10 high, divided into two storeys at the northern end with reception area, offices etc at ground floor and a small visitor area, office and lab. at first floor and the full volume devoted to the production area over the remainder of the building. The walls and roof will be clad in blue-black grey corrugated metal cladding with windows of similarly coloured aluminium.

From the public road, the building will be screened from view by roadside hedging and trees and by the substantial wall, and it will be viewed against a backdrop of trees. In addition the design and external treatment of the building is such as not to draw the eye or to emphasise its scale.

I consider that visual amenity should not be a reason to refuse permission.

## 7.22. Traffic

Concerns have been expressed in the grounds of appeal regarding traffic and parking, that the car park at the hotel is frequently congested; that the traffic management report made an assumption that the car park and associated facilities would always be available; and the third party is concerned that parking of cars and coaches around Kinnegar Road would occur if the brewery continues to expand. They don't accept that additional traffic movements would be negligible. They state that the junction of Kinnegar Road with the R247 is hazardous and that they are concerned that slow moving vehicles crossing the junction would be a traffic hazard. Their concerns include the shortness of the length of footpath, which ends opposite the site and the inadequacy of the single streetlight.

The first party has not responded to the grounds of appeal but did respond to similar objects to the application at planning authority stage, including that:

The impact on Kinnegar Road will be negligible. Kinnegar road is a mixed purpose carriageway with residential commercial agricultural and recreational users. Public access will be via the existing gates and carpark to Rathmullan House, and by walking from there to the brewery. Employees and goods in and out, will use the existing service entrance to Rathmullan House. The proposed development will only generate 6 daily arrivals and departures, a negligible increase with no impact on efficiency or safety. Rigid lorries already deliver to Rathmullan House via the service entrance to the planned development represents little or no additional traffic activity over existing. At peak production they anticipate 6-8 employees at any given time, the majority live within a 1km radius and the company will encourage them to walk or cycle to work.

7.23. I note the Consulting Engineer's report accompanying the application, KH Chartered Consulting, which states that they have met the local Area Engineer on site, who has confirmed that there are no major concerns regarding access to the proposed development and has asked that they provide a stop line at the intersection of the service access and the local road L5442 to formalise the junction. This stop line is

shown on drawing no. 15-012-001 Rev A0 (recd. 27th Nov 2015) accompanying the application.

- 7.24. In my opinion the proposed development is unlikely to generate traffic of a type or frequency to cause congestion or hazard on the public road, in the context of its existing use, such that traffic and parking should not be a reason to refuse permission.

## **8.0 Recommendation**

- 8.1. In light of the foregoing assessment it is recommended that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

## **9.0 Reasons and Considerations**

Having regard to the craft nature of the proposed brewery, its location screened by the high walls of the former orchard, within the grounds of the Rathmullen House hotel where there is potential for beneficial synergies with the established tourist facilities, and within the settlement boundaries of Rathmullen where such development is acceptable in principle, it is considered that the proposed development would not unduly impact on the residential or visual amenities of the area or cause obstruction to traffic or hazard to pedestrian users of the public road, and that subject to the mitigation proposed would not adversely impact on the European sites: Lough Swilly SAC and Lough Swilly SPA, and would accordingly 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 as amended by the further plans and particulars submitted on the 19 day of November 2016, 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. No retail sale of alcohol is permitted.

**Reason:** To define the terms of the permission

- 3 Noise levels from the development, measured at the southern, western and northern boundaries shall not exceed 55dB(A).

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

- 4 Construction operations shall be confined to the hours of 8am to 8pm Monday to Friday, and 8am to 2pm Saturday. No construction activity shall take place outside these hours or on Sundays or public holidays unless subject to the prior agreement of the planning authority.

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

- 5 All mitigation measures set out in the Natura Impact Statement (NIS) accompanying the planning application shall be implemented in full.

**Reason:** To prevent water pollution and to protect the qualifying interests for which the sites Lough Swilly SAC and Lough Swilly SPA have been designated.

- 6 Prior to commencement of development a project-specific Construction Environmental Management Plan (CEMP) shall be prepared as set out in the NIS, and shall include all the mitigation measures set out in the NIS and in addition shall include a method statement deal with the invasive alien

species Winter Heliotrope *petasites fragrans* which was identified on the site. The CEMP shall be submitted for the written agreement of the planning authority prior to the commencement of development.

**Reason:** To preserve the natural heritage of the area.

- 7 The location and other details of the proposed full retention petrol interceptor, through which surface water will pass prior to discharge to the drainage ditch, shall be submitted for the written agreement of the planning authority prior to the commencement of development.

**Reason:** In the interests of orderly development.

- 8 A vapour condensing system shall be installed within the brewery to eliminate the release of steam vapour from the wort boiling process to the atmosphere. The vapour condenser shall not incorporate a vapour stack that vents to the environment but rather shall consist of a closed system as described in the report from Banke Process Solutions submitted to the Planning Authority on 19/7/16.

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

- 9 Permanent visibility splays of 70m x 2.4m in each direction shall be maintained at the junction of the private entrance with the public road.

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

- 10 No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

. **Reason:** In order to allow the planning authority to assesses the impact of any such advertisement or structure on the amenities of the area.

- .  
11 . A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the building and thereafter shall be kept in place at all times for the duration of the use of the treatment plant. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation of the system.

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

- .  
11 . Prior to connecting to the public sewer the developer shall obtain a trade licence and comply with the requirements of Irish Water regarding the proposed sewer.

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

- .  
11 . The developer shall pay to the planning authority a financial contribution of €2599 (two thousand five hundred and ninety nine euros) 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. The contribution shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

. **Reason:** It is a requirement of the Planning and Development Act 2000

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.

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Planning Inspector

31<sup>st</sup> January 2017

**Appendices:**

- 1 Photographs
- 2 Extracts from County Donegal Development Plan 2012-2018
- 3 Site Synopsis Lough Swilly SAC
- 4 Site Synopsis Lough Swilly SPA