



An  
Bord  
Pleanála

## Inspector's Report ABP-303842-19

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<b>Development</b>	Combined footpath and cycleway of approximately 2.6 kilometres and associated accommodation works.
<b>Location</b>	Townlands of Ballyoghagan and Rosepenna, Co. Donegal.
<b>Local Authority</b>	Donegal County Council
<b>Type of Application</b>	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
<b>Observer(s)</b>	Denis & Yeolande O'Leary.
<b>Date of Site Inspection</b>	8 <sup>th</sup> June 2019
<b>Inspector s</b>	Sarah Lynch.



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## 1.0 Introduction

- 1.1. Donegal County Council is seeking approval from An Bord Pleanála to undertake works including the construction of a combined footpath and cycleway of approximately 2.6 kilometres and associated accommodation works within the Sheephaven SAC which is a designated European site. There are a number of other designated European sites (SPAs and SACs) in proximity to the proposed works (see further analysis below). A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

## 2.0 Proposed Development

- 2.1. The proposed development includes the construction of a 2.6km combined footpath and cycle way which will connect Carrigart and Downings along the R248. The proposed footpath/cycleway will be restricted to the western side of the R248. The works will include an uncontrolled crossing point at the junction with the L-1042 in the townland of Ballyohagan and will continue to a tie in at a point with the existing footpath and Downings adjacent to the Rosapena Hotel.
- 2.2. The width of the footpath/cycleway will vary from 2-3 metres. The proposed works will include kerbing, surfacing and drainage works. The proposed route will drain to the landside of the route by means of a crossfall on the finished surface. It is stated that the runoff from the road will be directed to the drains by means of the cross fall and road gullies where necessary.

2.3. The applicant states that the relocation of services such as electricity, water and sewerage where required will be agreed with the relevant authorities.

2.4. **Accompanying documents:**

- NIS.
- Plans and particulars demonstrating location and details of proposed works.
- Planning notices.

**Further Information**

2.5. A request for further information was submitted addressing issues relating to the following:

- The extent of the proposed works along the full length of the route.
- Details of the composition of the proposed pathway and materials to be used.
- Details of storm water runoff drainage system.
- The locations of Annex I/II species and habitats in relation to the proposed works and clearly demonstrating the boundary of the proposed route in relation to the location of these Annex I/II species and habitats.
- Clearly demonstrate locations where there is any potential interface with the proposed works and the existing Annex I/II species/habitats.
- Specific environmental mitigation measures shall also be included. Any habitat damage/loss should be addressed in the NIS.
- An addendum to the submitted NIS has been submitted as part of the response to the further information request and the application was re-advertised.

**3.0 Site and Location**

3.1. The proposed works will commence at the junction with the R248 and R245 and will continue to the west of the R248 to tie in with the existing footpath at Rosapena Hotel south of Downings. The route will be located within the grass verge of the R248 and is located within the Sheephaven SAC for c. 1.3km.

3.2. The R248 has a carriage width of c. 5.5 metres and a grass verge of between 0.5-4 metres. The Rosapena Hotel and links golf course are present to the north west of

the site. Limited development is present along the route with the exception of 2 no. dwellings south of the R248 and L-1042 junction and an additional 2 no. dwellings proximate to the junction with the R248 & R245.

- 3.3. The topography of the route is relatively flat and passes over the Umlagh Stream south of the R248 & R245 junction. The surrounding land is a mix of coastal grassed habitat as well as sections of salt marsh.

## 4.0 Planning History

- 4.1. There is no recently recorded history for this site.

## 5.0 Policy Context

### 5.1. National Policy

#### **Project Ireland 2040 National Planning Framework**

This framework supports the enhancement of local amenities – and specifically references greenways to improve connectivity and support sustainable diversification of the rural economy.

- National Policy Objective 22 states: “Facilitate tourism development and in particular a National Greenways, Blueways and Peatways Strategy, which prioritises projects on the basis of achieving maximum impact and connectivity at national and regional level.”

#### **Strategy for the Future Development of National and Regional Greenways, 2018**

This strategy seeks to deliver greenways that provide a substantially segregated off road experience linking places of interest, recreation and leisure in areas with beautiful scenery of different types with plenty to see and do.

#### **The National Cycle Policy Framework 2009-2020**

The principal policy objectives of this document is to promote a strong cycling culture in Ireland and to encourage recreational cycling. The vision statement is that all cities, towns and village in rural areas will be bicycle friendly. The framework identifies three main benefits of increased participation in cycling, namely an improved quality of life,

a stronger economy and an enhanced environment. Relevant objectives include: “Objective 3: Provide designated rural cycle networks especially for visitors and recreational cycling.

### **Get Ireland Walking Strategy and Action Plan 2017-2020**

The ‘Get Ireland Walking’ initiative was established in 2013 and its vision is to “empower and support people to choose to walk more often for recreation, transport and health as part of their daily life”. A number of actions are set out including the creation of opportunities for improved access to lands for recreational walking and to develop and market recreational walking infrastructure.

### **Smarter Travel: A Sustainable Transport Future 2009-2020**

This policy document identifies certain key goals and objectives to be met in order to introduce a national sustainable transport network. It notes that pedestrian and cycle facilities will be most successful where they form a coherent network and that cycling and walking will be pivotal to achieving some of the goals in national health policies to promote physical activity. It further details that “the cycling culture will also enhance our tourism industry by attracting many visitors to cycle in Ireland.

### **Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly.**

- RPO 6.23 To provide sustainable travel which will be supported by providing walking and cycling facilities (including Greenway and Blueway projects) as a priority across the region
- RPO 6.26 The walking and cycling offer within the region shall be improved to encourage more people to walk and cycle, through: (c) Development of a network of Greenways.

### **Donegal County Development Plan 2018-2024**

The development site is located in an area identified as being of high scenic amenity within the Development Plan. The following policies are of relevance to the proposed works:

- Policy T-O-13: To support the development of new walkways, walking routes, trails greenways and cycleways that maximise the potential for local, regional and all-island walking and cycling networks.

- Policy TOU-O-9: To support the development of new, and protect the functionality of existing, Greenways, walking and cycling routes as keys components of an overall green tourism infrastructure and as standalone tourism products in their own right.

## 6.0 Prescribed bodies

- Department of Culture Heritage and the Gaeltacht – archaeological monitoring condition recommended.

### 6.1. Observations:

- One observation was received from a local resident in support of the development and requesting that surfaces are level to enable wheelchair users.

## 7.0 Assessment

7.1. Under the provisions of Section 177AE (6) of the Planning and Development Act, 2000 (as amended), the Board is required to consider the following in respect of this type of application:

- The likely consequences for the proper planning and sustainable development of the area;
- The likely effects on the environment; and
- The likely impact on any European sites.

### **The likely consequences for the proper planning and sustainable development of the area**

7.2. As outlined above consent is sought by Donegal County Council for works including the construction of a 2.6km combined footpath and cycle way which will connect Carrigart and Downings along the R248. The landscape surrounding the proposed development is scenic and contains a number of high quality beaches as well as views over Sheephaven Bay to the west and Mulroy bay to the east.

7.3. Downings is the first and final destination of the Wild Atlantic Way and has become a significant tourist destination in its own right due to the development of sports tourism



within the village and surrounding area. Carrigart is also an increasingly attractive tourist destination and provides a support function in terms of services for visitors to Downings and the surrounding area.

- 7.4. The development of cycle infrastructure such as that proposed is directly in accordance with the key tenants of the National Planning Framework which seeks to support the delivery of recreational cycle infrastructure throughout the country. In addition it is an objective of the National Cycle Policy Framework to support the delivery of such rural cycle networks especially for visitors and recreational cycling.
- 7.5. At a local level it is of note that the policies and objectives of the Donegal Development Plan, as set out in section 5 above, also seeks to support and promote the delivery of cycle and walking infrastructure within the county in order to promote healthy living and attract tourism.
- 7.6. Therefore, having regard to the foregoing I consider that the principle of the proposed works is in accordance with the provisions of both the national and local plans for the area and are in accordance with the proper planning and sustainable development of the area.

#### **The likely effects on the environment**

- 7.7. The proposed works as mentioned above will comprise the development of a 2.6 km footpath/cycleway with associated drainage and accommodation works. It is important to outline that further information was requested as outlined above in relation to the layout and width of the proposed route, any interface with protected habitats and species of the Sheephaven SAC and details of the proposed drainage system. The applicant was requested to submit scaled drawings in this regard in order to allow for accurate measurements to be obtained in relation to the location and specifics of the proposed development and to allow for an accurate assessment of the potential for impacts on the receiving environment.
- 7.8. Impacts on the integrity of the Sheephaven SAC will be examined within the Appropriate Assessment Section of this report. With regard to other likely effects on the environment I consider it necessary to examine the details of the proposed drainage and the potential to impact on the receiving environment in terms of water pollution and soil contamination and flooding.

## **Water pollution & Soil Contamination**

- 7.9. A broad range of potential pollutants is associated with routine runoff from operational roads. These are combustion products of hydrocarbons, fuel and fuel additives, catalytic converter materials, metal from friction and corrosion of vehicle parts, lubricants, and materials spread during gritting and de-icing. Particulate contaminants originating from vehicles and vehicle related activities include carbon, rubber, plastics, grit, rust and metal filings.
- 7.10. As mentioned above the applicant was requested to submit further information in relation to the proposed drainage for the route and in response to this request submitted a number of 'typical' cross sections demonstrating the method and layout of drainage and width of the proposed route at various locations. It is important to note at this juncture that the submitted cross sections were not of a readable scale and therefore accurate dimensions cannot be obtained.
- 7.11. Section 4.7.2 of Addendum II to the NIS states that the pathway is designed to run directly adjacent to the R248 carriageway and incorporates a 500mm filter drain, Type K as per the TII design requirements. This storm water drain will extend along the margin of the pathway separating it from the adjacent road carriageway. The filter drains are to be composed of a trench lined with geotextile and filled with granular material to a depth of 70cm. The storm drainage system will filter run off and ultimately discharge to ground. It is stated that drainage has been design to TII design requirements. I note from GSI mapping that soils in the area of the works are free draining sands and gravels, and that groundwater vulnerability in the area of the works is high. The proposed filter materials and geotextile layer as per the TII drainage design requirements are standard and will provide adequate attenuation to protect this sensitive environment from contamination arising from surface water run off from the road and pathway.
- 7.12. It is of note that an additional open cut drain is proposed in areas outside of the Sheephaven SAC. This drain will cater for surface water from the pathway. Given the nature of the pathway and that surface water from the existing road carriage will enter the storm filter drain between the pathway and road I consider that this element of the proposal is acceptable and will not give rise to water pollution or contamination of soils.

- 7.13. Notwithstanding that impacts relating to the Sheephaven SAC will be examined within the Appropriate Assessment Section of this report, it is of note that Section 4.4 of Addendum II to the NIS, confirms that in areas where the pathway is in the vicinity of wetland habitats no drains will be installed with the exception of storm filter drains which are to be located at the interface between the R248 road carriageway and the pathway.
- 7.14. I consider, based on the information submitted, that the proposed pathway and associated drainage will not give rise to water pollution or soil contamination in the area.

### **Flooding**

- 7.15. Increases in water flows from surface water drainage systems which discharge to ground should be considered as a possible source of flooding. Infiltration of road runoff may surcharge local groundwater and cause a local rise in the water table. The material may not have sufficient permeability to allow water to infiltrate. This may lead to localised or down gradient flooding. The topography of the discharge site, the thickness and permeability of the unsaturated zone, the nature of the receiving aquifer, the groundwater level and the design of the discharge system may all affect the susceptibility of a site to groundwater flooding
- 7.16. Even where roads are not within floodplains, their construction can cause local changes to catchment drainage patterns. The amount of runoff will increase as a greater area is paved, and without attenuation, there will be an increase in the rate at which runoff reaches the receiving water bodies. The increase from one drainage outfall alone may not make a significant difference to the water body, but the cumulative effect of all the outfalls in a road project, or the effects of its construction, may affect flood risk elsewhere in the catchment.
- 7.17. As aforementioned, storm drains will be constructed along the full length of the route and soils are free draining sands and gravels. Based on the information submitted and that the works are not located in an area prone to flooding, I consider that the proposed works will not exacerbate or give rise to flooding in the area.

### **Ecology**

- 7.18. Whilst the Marsh Fritillary is not a qualifying interest of the Sheephaven SAC, it is important to acknowledge the record of its presence within the vicinity of the proposed

works within the Molina Meadows, any impact on these meadows will undoubtedly have an impact on the population of the Marsh Fritillary in this area. Impacts on these Molina Meadows are examined within the Appropriate Assessment section below. The applicant was requested to submit specific information in relation to the proximity of the proposed pathway to the Molina Meadows and failed to do so. In the absence of adequate accurate information, I cannot properly determine whether the proposed development is likely to give rise to impacts on the Marsh Fritillary population previously recorded in the area.

7.19. Likely effects on the environment therefore relate to the impacts of the proposed development on the integrity of the Sheephaven SAC. These impacts will be examined in detail as follows.

7.20. **The likely significant effects on a European site:** The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

7.21. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

## 8.0 **Appropriate Assessment**

8.1. The NIS dated September 2017 has been prepared by Woodrow Consultants on behalf of Donegal County Council.

8.2. The NIS prepared by Woodrow Consultants describes the proposed development, its receiving environment and relevant European Sites in the zone of influence of the development. It was informed by surveys and a desk top study. Appendix 1 details

that a site walkover was carried out on the 28<sup>th</sup> and 29<sup>th</sup> March 2017 and assessed the habitats present.

- 8.3. The entire route was walked, and habitats present on either side were recorded. Following the initial walkover, mapped areas of machair grassland were examined in more detail using 1m x 1m quadrats to assess the relative abundance of plant types and species present and the general condition of the habitat. Parameters for ground condition, vegetation cover, vegetation height and current management were noted.
- 8.4. The report concluded that, taking into account the project design and the implementation of mitigation measures identified in the NIS, the proposed development will not result in adverse effects on the integrity of any Natura 2000 site.
- 8.5. Having reviewed the NIS and the supporting documentation, I am generally satisfied that it provides adequate information in respect of the baseline conditions, identifies the potential impacts, uses best scientific information and knowledge and provides details of mitigation measures. I am satisfied, that the information provided is generally sufficient to allow for appropriate assessment of the development.

**Stage 1 Screening**

- 8.6. Notwithstanding the submission of a NIS, it is prudent to review the screening process to ensure alignment with the sites brought forward for AA and to ensure that all sites that may be affected by the development have been considered.
- 8.7. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

**Table 1 European sites considered for Stage 1 screening:**

European Site Name & Code	Distance	Qualifying Interest	Source-pathway-receptor	Considered further in screening

Sheephaven SAC 001190	Works are partially within this SAC	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Machairs (* in Ireland) [21A0]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Euphydryas aurinia (Marsh Fritillary) [1065]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>	Direct link.	<p>Yes.</p> <p>Potential for direct impact arising from habitat disturbance.</p>
Mulroy Bay SAC 002159	C. 0.77km east	<p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Lutra lutra (Otter) [1355]</p>	Umlagh Stream provides a hydrological link to SAC.	<p><b>Yes</b></p> <p>Works to be carried out on bridge over stream which flows into Mulroy Bay</p>
Tranarossan and Melmore Lough SAC 000194	1km north west	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Perennial vegetation of stony banks [1220]</p>	No pathway	<b>No</b>

		<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Decalcified fixed dunes with <i>Empetrum nigrum</i> [2140]</p> <p>Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170]</p> <p>Machairs (* in Ireland) [21A0]</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>		
Horn Head to Fanad Head SPA 004194	2km north west	<p>Fulmar (<i>Fulmarus glacialis</i>) [A009]</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Shag (<i>Phalacrocorax aristotelis</i>) [A018]</p> <p>Barnacle Goose (<i>Branta leucopsis</i>) [A045]</p> <p>Peregrine (<i>Falco peregrinus</i>) [A103]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p> <p>Chough (<i>Pyrhcorax pyrrhcorax</i>) [A346]</p>	Umlagh Stream provides a hydrological link to SPA	No potential for impact due to separation distance of works from SPA

		Greenland White-fronted Goose ( <i>Anser albifrons flavirostris</i> ) [A395]		
Lough Nagreany Dunes SAC 000164	3.4km	Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Decalcified fixed dunes with <i>Empetrum nigrum</i> [2140] Atlantic decalcified fixed dunes ( <i>Calluno-Ulicetea</i> ) [2150] Dunes with <i>Salix repens</i> ssp. <i>argentea</i> ( <i>Salicion arenariae</i> ) [2170] Humid dune slacks [2190] Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130] <i>Najas flexilis</i> (Slender Naiad) [1833]	Umlagh Stream provides a hydrological link to SAC.	No potential for impact due to separation distance of works from SAC
Cloghernagore SAC 002047	4.7km south west	Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> ) [3110] Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260] Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] Alpine and Boreal heaths [4060] Molinia meadows on calcareous, peaty or clayey-	No pathway	No



		<p>silt-laden soils (Molinion caeruleae) [6410]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p>		
Greers Isle SPA 004082	6.4km north east	<p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p> <p>Common Gull (Larus canus) [A182]</p> <p>Sandwich Tern (Sterna sandvicensis) [A191]</p>	Umlagh Stream provides a hydrological link to SPA.	No potential for impact due to separation distance of works from SPA
Sessiagh Lough SAC 000185	6.5km north west	<p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]</p> <p>Najas flexilis (Slender Naiad) [1833]</p>	No pathway	No
Horn head & Rinclevan SAC 000147	7km north west	<p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	No pathway	No

		<p>Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170]</p> <p>Humid dune slacks [2190]</p> <p>Machairs (* in Ireland) [21A0]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130]</p> <p><i>Vertigo geyeri</i> (Geyer's Whorl Snail) [1013]</p> <p><i>Halichoerus grypus</i> (Grey Seal) [1364]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p> <p><i>Najas flexilis</i> (Slender Naiad) [1833]</p>		
Kindrum Lough SAC 001151	7km north west	<p>Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130]</p> <p><i>Najas flexilis</i> (Slender Naiad) [1833]</p>	No Pathway	No
Ballyhoorisky Point to Fanad Head SAC 001975	7.3KM north east	<p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130]</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140]</p> <p><i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014]</p> <p><i>Najas flexilis</i> (Slender Naiad) [1833]</p>	No Pathway	No

Muckish Mountain SAC 001179	10km	Alpine and Boreal heaths [4060]  Siliceous rocky slopes with chasmophytic vegetation [8220]	No pathway	No
Fanad Head SPA 004148	11km	Corncrake ( <i>Crex crex</i> ) [A122]	No pathway	No
Leannan River SAC 002176	13km	Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> ) [3110]  Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130]  <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]  <i>Salmo salar</i> (Salmon) [1106]  <i>Lutra lutra</i> (Otter) [1355]  <i>Najas flexilis</i> (Slender Naiad) [1833]	No pathway	No
Lough Fern SPA 004060	13km south	Pochard ( <i>Aythya ferina</i> ) [A059]  Wetland and Waterbirds [A999]	No pathway	No
Ballyness Bay SAC 001090	15km south	Estuaries [1130]  Mudflats and sandflats not covered by seawater at low tide [1140]  Embryonic shifting dunes [2110]  Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]  Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]  Humid dune slacks [2190]  <i>Vertigo geyeri</i> (Geyer's Whorl Snail) [1013]	No pathway	No

8.8. The NIS screens out all Natura 2000 sites except the Sheephaven SAC on the grounds that they are removed from the development and will not be affected by disturbance or the lack of any pathway. Having regard to table 1 above, this approach is considered reasonable.

Therefore, based on my examination of the NIS report and supporting information, the scale of the proposed development, its likely effects by way of potential disturbance to Annex I habitat, I would conclude that a Stage 2 Appropriate Assessment is required for the Sheephaven SAC.

### **Stage II Appropriate Assessment**

8.9. The following Appropriate Assessment of the implications of the proposed works alone and in combination with other relevant plans and projects will be carried out in relation to the following European site in view of its conservation objectives:

- Sheephaven SAC

8.10. The NIS submitted by Donegal County Council concluded that the proposal will not beyond reasonable scientific doubt, adversely affect the integrity of any European Site either directly or indirectly.

8.11. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European site using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

#### **8.12. Potential for direct and indirect effects**

8.13. It is important to note at this juncture that the Sheephaven SAC contains a diversity of habitats ranging from mudflats, saltmarshes and sand dunes, to lakes, rivers, heath, scrub and woodland. Qualifying interests recorded directly adjacent to the proposed works include Atlantic Salt Meadow, Fixed coastal dunes with herbaceous vegetation (grey dunes), Machairs and Petalwort. Marsh Fritillary, whilst not a qualifying interest of this SAC was recorded historically within Logue's field and was associated with an area of Annex I habitat Molina Meadows.

- 8.14. The vegetation range and cover of the salt meadow is identified as an attribute of the Sheephaven SAC and the conservation objective target for this particular attribute is stated as 'no decline'. Similarly, Machair, Fixed coastal dunes with herbaceous vegetation (grey dunes) and Petalwort are also identified as attributes of the SAC and the conservation objective target for these habitats is also 'no decline'.
- 8.15. Due to the location of the proposed route and the nature of the works, I consider that Atlantic Salt Meadow, Machair, Fixed coastal dunes with herbaceous vegetation (grey dunes) and Petalwort specifically are the qualifying interests at risk from the proposed development.
- 8.16. The overriding conservation objective of the Sheephaven SAC aims to maintain or restore the favourable conservation condition for habitats and/or species at this site. The maintenance of habitats and species within the Natura 2000 site at favourable condition will contribute to the overall maintenance of favourable conservation status of those species at a national level.
- 8.17. The NIS submitted acknowledges that the proposed works will give rise to a potential for both direct and indirect significant impacts and proposes measures to mitigate these impacts.
- 8.18. Having regard to the NIS submitted, the nature and scale of the proposed work and the location of the above qualifying interests relative to the proposed works I consider that the development has the potential to give rise to the following direct and indirect effects:
- i) The potential for habitat loss, due to encroachment of route onto habitat,
  - ii) The potential for habitat disturbance due to construction works.
  - iii) Potential for deterioration of water quality due to works over the Umlagh Stream.
- 8.19. The impact of these effects will be discussed in detail in the context of proposed mitigation measures within the integrity test below.
- 8.20. **Potential in-combination effects.**
- 8.21. In combination effects include the use of Logue's field for the Carrigart Vintage Club Show and for one off events such as circuses. A NIS was prepared for the use of this

field by the Vintage Club and all mitigation measures were agreed with the NPWS. The applicant reviewed all planning applications within the vicinity of the site and concluded that none would have any adverse effect of the site's conservation objectives in combination with the proposed pathway. Three out of the four planning applications in the vicinity in the last 10 years related to domestic extensions.

8.22. The NIS submitted, concluded that there would be no cumulative / in-combination effects arising from the proposed development.

8.23. Having regard to the foregoing, I am satisfied that no in combination effects will arise.

#### 8.24. **Mitigation Measures**

8.25. It is of note that standard mitigation measures are outlined in the NIS submitted, such measures include the delineation of the interface between Sheephaven SAC habitats and the road using hazard tape and signage, a 5 metre buffer to be maintained around the SAC boundary whereby no storage or deposition of materials will be permitted and that all site works, including reinstatement of the boundary fence, will occur from the road side. All mitigation measures will be assessed in relation to the potential for likely significant effects on the Sheephaven SAC within the following integrity test.

#### **The integrity Test**

8.26. I have considered the NIS along with the information submitted with the application and have had regard to the mitigation measures outlined. Potential for impacts to arise in relation to the construction phase of the development relate to the movement of soils within the site and the encroachment of the proposed pathway onto protected habitat within the SAC in addition to the leakage of oils and diesels or other such contaminants from construction vehicles.

8.27. It is stated by the applicant that the proposed route does not encroach onto any Annex I habitat present in proximity to the proposed works, and a geotextile membrane and separation boards are to be used to prevent materials from impacting existing habitat present along the route. Plant and machinery will be regularly checked for leaks and the bunded areas will be provided for refuelling away from the works area. Spill kits will be in place for machines that are operating within the site within the SAC and at the Umlagh Bridge. No Storage of materials will occur within 5 metres of the SAC

boundary. Sufficient turves will be retained from the pathway to enable rapid reinstatement of any adjacent areas where vegetation has become fragmented.

- 8.28. It is also proposed to direct any drainage to the proposed filter drains between the pathway and the carriageway.
- 8.29. These mitigation measures are standard in nature and are known to be effective. I am therefore satisfied that the mitigation measures outlined in relation to hydrocarbon contamination of soils and waters in relation to construction works are acceptable.
- 8.30. However, notwithstanding that the applicant has stated within the NIS and the addendum to the NIS that the proposed works will avoid existing Annex I habitat within the Sheephaven SAC along the route, accurate measurements cannot be obtained from the plans submitted. The applicant was requested by way of further information to provide plans of an adequate scale to accurately demonstrate the location and extent of the proposed pathway relative to existing Annex I habitats along the route and failed to do so.
- 8.31. The typical cross sections submitted as part of the addendum to the NIS are not to an identifiable scale and many of the layout plans within the NIS and Addendum to the NIS are overlaid on google imagery from which accurate measurements cannot be taken. I note that layout plans were submitted at a scale of 1:2000 for the proposed route, however no information in relation to the location of Annex I habitat has been included within these plans.
- 8.32. Whilst I have no objection to the principle of the proposed pathway, in the absence of adequately scaled drawings which illustrate the location and dimensions of the proposed pathway relative to Annex I habitat for the full route, I cannot properly determine whether habitats will be adequately avoided, whether adequate separation distances can be achieved and therefore, whether the proposed mitigation measures are adequate.
- 8.33. In the absence of such information, impacts on the qualifying interests of the Sheephaven SAC cannot be properly determined.

### **Conclusion**

- 8.34. On the basis of the information provided with the application, including the Natura Impact Statement, and in light of the assessment carried out, I cannot be satisfied that

the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site no. 001190 Sheephaven SAC, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

**Table 2 AA summary matrix – Sheephaven SAC**

<b>Sheephaven SAC, site code: 001190</b> <b>Summary of likely significant effects</b> <ul style="list-style-type: none"> <li>• <b>Habitat Loss / Disturbance</b></li> </ul> <b>Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest</b>					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Atlantic Salt Meadow 1330  Machairs 21A0  Petalwort 1395  Fixed coastal dunes with herbaceous vegetation (grey dunes) 2130	Habitat area – no decline, stable or increasing.	Loss and disturbance due to construction and alignment of pathway.	Control of stockpiling locations and standard hydrocarbon mitigation.	None	No
<b>Overall conclusion: Integrity test</b>  Following the implementation of mitigation, the construction and operation of this proposed development may adversely affect the integrity of this European site and reasonable doubt remains as to the absence of such effects due to the lack of certainty regarding the alignment and dimensions of the route in relation to existing Annex I habitat within the Sheephaven SAC.					

## 9.0 Recommendation

Having regard to the foregoing assessment, I consider that based on the information submitted and in particular the absence of an Invasive Species Management Plan, the



Local Authority has failed to adequately demonstrate that the proposed development would not result in the loss or disturbance of Annex I habitat. The applicant has therefore not adequately demonstrated that the proposed development would not adversely affect the integrity of the European Site no. 001190, in view of the site's Conservation Objectives. I therefore consider the proposal to be unacceptable in this regard and recommend that permission is refused.

### **Reasons and Considerations**

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) 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,
- (d) the conservation objectives, qualifying interests and special conservation interests for the Sheephaven SAC, site no. 001190
- (e) the policies and objectives of the Donegal Development Plan, 2013-2019,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development, and
- (i) the report and recommendation of the person 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 Sheephaven SAC (site code: 001190) is the European site 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 Sheephaven SAC (site code: 001190), in view of the Site's 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 Sheephaven SAC (site code: 001190),
- ii. Mitigation measures which are included as part of the current proposal,
- iii. Conservation Objective for this European Site, and

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the inspector's report in respect of the potential effects of the proposal on the integrity of the aforementioned European Site, having regard to this site's Conservation Objectives.

Thus, the Board is not satisfied that the Local Authority has demonstrated that the proposal would not adversely affect the integrity of the European Site in view of the site's Conservation Objective, as this proposal would entail development which has the potential to disturb / remove Annex I habitat within the Natura 2000 site.

In overall conclusion, the Board is not satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objective.

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Sarah Lynch  
Planning Inspector

25<sup>th</sup> February 2020