



An
Bord
Pleanála

Inspector's Report

ABP-310487-21

Development	Construction of a new footpath
Location	Adjacent to the R248 Carrigart to Downings Regional Road, Co. Donegal
Local Authority	Donegal County Council
Type of Application	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
Prescribed Bodies	Department of Housing, Local Government and Heritage.
Observer(s)	None.

Date of Site Inspection

25th August 2021.

Inspector

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 c.1.5 - 2 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. Landfall drains are not proposed within the Sheephaven SAC.

2.3. **Accompanying documents:**

- NIS.
- Method Statement – Addendum II to NIS
- Invasive Species Management Plan Addendum IV to NIS
- Plans and particulars demonstrating location and details of proposed works.
- Planning notices.

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. ABP 303842 - Permission was refused for the construction of a 2.5km combined footpath and cycle way connecting Carrigart and Downings along the R248 for the following reasons:
- In the absence of adequately scaled drawings which detail the location and dimensions of the proposed combined footpath and cycleway relative to Annex I habitat for the full route, and relative to the Umlagh Stream, and in the absence on an Invasive Species Management Plan, the Board is not satisfied that the Local Authority has demonstrated that the proposed development

would not adversely affect the integrity of European Sites: Sheephaven SAC (site code: 001190) and Mulroy Bay SAC (site code: 002159) in view of the sites' Conservation Objectives, as the proposed development would entail development which has the potential to disturb / remove Annex I habitat, and to deteriorate water quality, within the Natura 2000 sites. In overall conclusion, the Board is not satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives. In such circumstances, the Board is precluded from approving the proposed development.

5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

5.4. European sites located in proximity to the subject site include:

- Sheephaven SAC
- Mulroy Bay SAC
- Tranarossan and Melmore Lough SAC

5.5. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:

The likely effects on the environment.

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

The likely significant effects on a European site.

5.6. **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 The Natura Impact Statement

6.1. Donegal County Council’s application for the proposed development was accompanied by a Natural Impact Statement (NIS) which scientifically examined the proposed development and the European sites. The NIS identified and characterised the possible implications of the proposed development on the European sites, in view of the site’s conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.

6.2. The NIS was accompanied by an Addendum to the NIS and plans and particulars.

7.0 Consultations

7.1. The application was circulated to the following bodies:

- Department of Culture, Heritage and the Gaeltacht
- Department of Housing, Planning and Local Government
- National Parks and Wildlife Service
- Fáilte Ireland
- An Taisce
- OPW

Responses were received from:

7.2. Department of Housing, Planning and Local Government

- The department notes the sensitive location of the proposed development adjacent to the Sheephaven SAC, several qualifying interests of the site are likely to be significantly affected by the proposed development.
- The department notes the detailed surveys and sensitive siting of the development.
- The NIS must state that the proposed development will avoid direct irreversible and permanent loss of QIs.
- The use of language such as, '*as far as possible*' is not appropriate and provides no certainty.
- Invasive species spread is a considerable risk with the development and should be controlled or removed prior to the commencement of site works.
- Details of construction storage and machinery compounds and the pollution, prevention and response statement should be included in the NIS.
- The assessment cannot have lacuna or gaps and must contain precise and definitive findings.

8.0 Assessment

8.1. 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.

8.2. **The likely consequences for the proper planning and sustainable development of the area:**

8.3. 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. It is important to note at this juncture that the proposed footpath and cycleway is largely unchanged from that proposed within the previous application (ABP 303842). Additional detail with regard to the proximity of the proposed development relative to the qualifying interests of the Sheephaven SAC, the varying width measurements of the proposed works, and additional details with regard to the proposed construction methodology and specific design solutions for the proposed works have been provided. The plans and particulars submitted with this application provide greater clarity with regard to the works proposed and the location of these works in relation to the Sheephaven SAC. The lack of such clarity was of concern to the Board in the assessment of the previous application.

8.4. It is important to note that the proposed works do not encroach upon or affect any Recorded Monuments or Protected Structures. The visual impact of the development given its scale and location within the grass verge of an exiting road is significantly limited and I am satisfied having completed a detailed site inspection that negative visual impacts will not arise.

8.5. As outlined within the previous inspector's report, 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.

- 8.6. 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. At the time of inspection, I noted a significant number of people walking and cycling on the road between Carrigart and Downings. There is no existing footpath facility along this section of the road, walkers and cyclists are therefore present on the carriageway.
- 8.7. With regard to the overriding principle of the development, I note that the provision 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.
- 8.8. 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.
- 8.9. Thus, 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.
- 8.10. In overall conclusion I am satisfied based on the information submitted that the proposed development is in accordance with the proper planning and sustainable development of the area, subject to the prevent of environmental affects and compliance with the requirements of the Habitats Directive.
- 8.11. **The likely effects on the environment**
- 8.12. The proposed works as mentioned above will comprise the development of a 2.6 km footpath/cycleway with associated drainage and accommodation works.
- 8.13. Impacts on the integrity of the Sheephaven SAC will be examined within the Appropriate Assessment Section of this report hereunder. With regard to other likely effects on the environment I consider it necessary to examine the details of the proposed works and the potential of these works to impact on the receiving

environment in terms of water pollution, soil contamination, flooding and spread of invasive species.

Water pollution & Soil Contamination

- 8.14. 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. Providing increased levels of drainage along carriageways therefore provides additional opportunity for the foregoing pollutants to enter the surrounding environment.
- 8.15. It is stated within Section 4.7.2 of Addendum II to the NIS 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 proposed 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 designed 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.
- 8.16. I 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.
- 8.17. 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.

- 8.18. 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. The proposed drainage design is common practice for such developments and is known to be effective.

Flooding

- 8.19. 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.
- 8.20. 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.
- 8.21. I note that the application site is not located in an area prone to flooding and as mentioned above the underlying soils are free draining sands and gravels. Given the location of the proposed works and the permeability of the underlying soils I am satisfied that the proposed storm drains, which are to be constructed along the full length of the footpath and cycleway, will not give rise to flooding or significantly exacerbate flooding within the surrounding area. The proposed development is therefore acceptable in this regard.

Ecology

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. However, further to the submission made by the department, I note that the proposed development will not encroach on the area identified as containing Molina Meadows. The Council have provided mapping which demonstrates that the proposed development will be contained entirely within the existing grass verge, impacts to the Marsh Fritillary are therefore not expected.

Invasive Species

- 8.22. An invasive species management plan has been submitted with the application and comprises an addendum to the NIS. A survey was carried out along the R248 for the length of the works and extended 30 metres on either side of the carriage way on the 6th September 2020 and incorporates previous field surveys undertaken on the 28th and 29th March 2017.
- 8.23. One invasive plant species, '*Sea Buckthorn Hippophae Rhamnoides*' was recorded within the site area, between the R248 and the minor road that joins it at Ballyohagan. It is stated that significant areas of this species are present west of the survey area and appear to be spreading in the vicinity. Other invasive species noted within the area but not listed in the third schedule include Montbretia, the European rabbit and Sycamore. The invasive species management plan states that the rabbit is having a positive effect on machair lands by maintaining low grass levels thus enabling machair to flourish. It further states that there is no requirement for action in relation to Sycamore. However, consideration should be given to biosecurity measures employed in relation to the management of Sea Buckthorn and Montbretia. Measures such as toolbox talks, fencing off of invasive species, demarcated site access routes and the complete removal of invasive plant species should they be found within the works area are all proposed within the plan.
- 8.24. The plan also considers the potential for other invasive plant species to occur within the proposed development site such as Japanese Knotweed. It is stated that this plant occurs c. 2km from the development site and due to the speed at which it spreads, it

is recommended that a pre-construction survey is carried out in order to ensure that no such plants are present within the development site prior to works. Should this plant be encountered prior to construction a management and removal procedure will be employed which is outlined in Section 5.2.1 of the Invasive Species Management Plan submitted. I am satisfied that the measures outlined within the plan are common practice and are known to be effective in the management and removal of Japanese Knotweed.

8.25. Overall, I am satisfied that the Invasive Species Management Plan has identified the invasive species present within the works area and, has adequately addressed the potential for species within the wider area to colonise the proposed development site. I am further satisfied that the plan adequately outlines appropriate methods of avoidance and management of such species should the need arise. Therefore, based on the information submitted I consider the potential for the development to give rise to the spread of invasive species is significantly limited in this instance and the proposed development is therefore acceptable in this regard.

8.26. Having regard to the foregoing assessment, it is apparent that likely effects on the environment relate to the impacts of the proposed development on the integrity of the Sheephaven SAC. These impacts will be examined in detail as follows.

8.27. **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

8.28. **Compliance with Articles 6(3) of the EU Habitats Directive**

8.29. 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.

8.30. **The Natura Impact Statement**

8.31. The application was accompanied by an NIS which described the proposed development, the project site and the surrounding area. The NIS contained a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within several European Sites that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites and their conservation objectives, it suggested mitigation measures, assessed in-combination effects with other plans and projects and it identified any residual effects on the European sites and their conservation objectives.

8.32. The NIS was informed by the following studies, surveys and consultations:

- A desk top study.
- An examination of aerial photography and maps.
- A walkover of site and surroundings and habitat mapping in March 2017, September 2020 and April 2021.

8.33. The report concluded that, subject to the implementation of best practice and the recommended mitigation measures, the proposed development would not result in adverse effects on the integrity of any Natura 2000 site.

8.34. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. Details of mitigation measures are provided, and they are summarised in Section 7 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

8.35. **Appropriate Assessment**

8.36. I consider that the proposed development of a 2.6 km footpath and cycle way is not directly connected with or necessary to the management of any European site.

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 I consider the following European Sites 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	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] 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] Machairs (* in Ireland) [21A0] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] <i>Euphydryas aurinia</i> (Marsh Fritillary) [1065] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]	Direct link.	Yes. Potential for direct impact arising from habitat disturbance and contamination arising from construction activities.

<p>Mulroy Bay SAC 002159</p>	<p>C. 0.77km east</p>	<p>Large shallow inlets and bays [1160] Reefs [1170] Lutra lutra (Otter) [1355]</p>	<p>Umlagh Stream provides a hydrological link to SAC.</p>	<p>Yes Works to be carried out on bridge over stream which flows into Mulroy Bay. Potential for contamination of waters arising from construction materials and activities.</p>
<p>Tranarossan and Melmore Lough SAC 000194</p>	<p>1km north west</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] 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] Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170] Machairs (* in Ireland) [21A0] Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140] European dry heaths [4030]</p>	<p>No pathway</p>	<p>No</p>

		Alpine and Boreal heaths [4060] Petalophyllum ralfsii (Petalwort) [1395]		
Horn Head to Fanad Head SPA 004194	2km north west	Fulmar (<i>Fulmarus glacialis</i>) [A009] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Barnacle Goose (<i>Branta leucopsis</i>) [A045] Peregrine (<i>Falco peregrinus</i>) [A103] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Chough (<i>Pyrhocorax pyrrhocorax</i>) [A346] Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]	Umlagh Stream provides a hydrological link to SPA	No potential for impact due to separation distance of works from SPA
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]	Umlagh Stream provides a hydrological link to SAC.	No potential for impact due to separation distance of works from SAC

		<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>		
Cloghernagore SAC 002047	4.7km south west	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Molinia meadows on calcareous, peaty or clayey-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>	No pathway	No
Greers Isle SPA 004082	6.4km north east	<p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p>	Umlagh Stream provides a	No potential for impact due to separation

		Common Gull (<i>Larus canus</i>) [A182] Sandwich Tern (<i>Sterna sandvicensis</i>) [A191]	hydrological link to SPA.	distance of works from SPA
Sessiagh Lough SAC 000185	6.5km north west	Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130] Najas flexilis (Slender Naiad) [1833]	No pathway	No
Horn head & Rinclevan SAC 000147	7km north west	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] Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170] Humid dune slacks [2190] Machairs (* in Ireland) [21A0] Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130] <i>Vertigo geyeri</i> (Geyer's Whorl Snail) [1013] <i>Halichoerus grypus</i> (Grey Seal) [1364] <i>Petalophyllum ralfsii</i> (Petalwort) [1395] <i>Najas flexilis</i> (Slender Naiad) [1833]	No pathway	No
Kindrum Lough SAC 001151	7km north west	Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae	No Pathway	No

		and/or Isoeto-Nanojuncetea [3130] Najas flexilis (Slender Naiad) [1833]		
Ballyhoorisky Point to Fanad Head SAC 001975	7.3KM north east	Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130] Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Najas flexilis (Slender Naiad) [1833]	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 (Crex crex) [A122]	No pathway	No
Leannan River SAC 002176	13km	Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110] Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355]	No pathway	No

		Najas flexilis (Slender Naiad) [1833]		
Lough Fern SPA 004060	13km south	Pochard (Aythya ferina) [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 Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Vertigo geyeri (Geyer's Whorl Snail) [1013]	No pathway	No

Screening Determination

- 8.37. Based on my examination of the NIS report and supporting information (including the addendums to the NIS), the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for two of the designated European sites referred to above, namely Sheephaven SAC and Mulroy Bay SAC. It is important to note that mitigation measures have not been considered in the Appropriate Assessment Screening.
- 8.38. The remaining 14 no. sites can be screened out from further assessment because of the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and these European sites. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, 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(s) 001090, 004060, 002176, 004148, 001179, 001975, 001151, 000147, 000185, 004082, 002047, 000164, 004194, 000194 in view of the sites conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

8.39. **Relevant European sites:** The Conservation Objectives and Qualifying Interests, including any relevant attributes and targets for these sites, are set out below.

Site Name	Qualifying Interests	Distance
1. Sheephaven SAC 001190	<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 (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</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>Humid dune slacks [2190]</p> <p>Machairs (* in Ireland) [21A0]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Euphydryas aurinia</i> (Marsh Fritillary) [1065]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>	Works are within the SAC
2. Mulroy Bay SAC 002159	<p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>	c. 0.77km, direct hydrological link via Umlagh Stream.

8.40. The NIS submitted acknowledges that the proposed works will give rise to a potential for both direct and indirect significant impacts arising from:

- The potential for habitat loss, due to encroachment of route onto habitat,
- The potential for habitat disturbance due to construction works.

- Indirect loss of habitat due to potential spread of invasive plant species.
- Loss of habitat due to contamination arising from construction works.
- Impacts to water quality arising from construction works and materials.

8.41. It is important to consider the location of all qualifying interests of both the Sheephaven SAC and the Mulroy Bay SAC in order to identify the qualifying interests at risk of significant impact.

Sheephaven SAC site code: 001190

8.42. **Description of site:**

8.43. 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. Mediterranean Salt Meadows are also present in proximity to the site albeit separated from the site by the existing carriageway. 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 adjacent to the site.

8.44. 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, Mediterranean Salt Meadows, 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'.

8.45. **Qualifying Interests at risk within the Sheephaven SAC**

8.46. Having regard to the NIS submitted, the nature and scale of the proposed work and the location of the qualifying interests of the Sheephaven SAC relative to the proposed works, I consider that the following are the specific qualifying interests that are at risk of potential impact. Qualifying Interests not specified below are discounted based on their location significantly removed from the proposed works. Impacts have the potential to arise from habitat disturbance due to construction works, indirect loss of habitat due to potential spread of invasive plant species and loss of habitat due to contamination arising from construction works:

- Atlantic Salt Meadows
- Mediterranean Salt Meadow
- Machair
- Fixed Coastal Dunes with herbaceous vegetation (grey dunes)
- Petalwort

Potential direct and indirect effects:

8.47. Potential impacts relating to each QI will be examined hereunder, it is important to note at this juncture that 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.

8.48. Atlantic Salt Meadows & Mediterranean Salt Meadows

8.49. It is stated within the NIS submitted and illustrated within the NPWS website, that small areas of Atlantic Salt Meadows and Mediterranean Salt Meadows occur in close proximity to the proposal area, near to the southern end on the western and eastern side of the road, c. 250 metres from Carrigart village. The proposed pathway runs immediately adjacent to Atlantic Salt Meadow habitat for a total distance of c.80m and is separated from the proposed development area by a stockproof fence. Mediterranean Salt Meadow and Atlantic Salt Meadow are also present on the opposite side of the road to the proposed footpath and are separated from the carriageway a small grass verge and a stockproof fence.

8.50. Impacts to these habitats could arise from habitat disturbance/loss during construction, due to trampling/encroachment on the areas of habitat or contamination and pollution arising from fuels, lubricants or cementitious products utilised during construction. Operational impacts could arise from contaminated surface water entering these areas from drainage channels.

8.51. Machair & Petalwort

8.52. The majority of land within the Sheephaven SAC contains machair and contain both wet and dry machair and improved machair grassland. It is stated within the NIS

submitted that Machair is the principal habitat of Annex II liverwort species petalwort at this site, which is also a QI of the SAC.

- 8.53. A survey carried out within Logues field in 2017 noted that machair in this location is in very good condition. A further survey carried out in April 2021 found that machair habitat in the general vicinity of the proposed footpath remained in good condition. Bare ground coverage tended to exceed the threshold level required to achieve 'Favourable Status' for machair and petalwort and it is stated that improvements were noted at the time in relation to the original survey in 2017.
- 8.54. It is stated within the NIS that whilst no machair habitat or suitable habitat for petalwort occurs directly within the proposed pathway route, these habitats occur within close proximity to the proposed works and are separated by stockproof fencing.
- 8.55. Potential impacts to Machair and Petalwort can arise from construction works, stockpiling of materials, trampling of habitat by vehicle movements or workers and contamination of habitat by fuels and lubricants from construction machinery. Other potential impacts can include habitat loss due to the spread of invasive plant species such as that noted above, Sea Buckthorn. This species has been identified within close proximity to the proposed works and mitigation is required to prevent its spread within the SAC.
- 8.56. **Fixed Coastal Dunes with herbaceous vegetation**
- 8.57. It is stated that a small area of fixed dune habitat lies immediately adjacent to the proposed pathway, to the west of the R248, this section of dune is outside of the SAC boundary. The closest dune habitat within the SAC is located on the opposite side of the road to the proposed works. Given that the carriageway separates this habitat from the proposed works direct impacts are not likely however, potential impacts could arise from access by construction vehicles or stockpiling of materials in close proximity to this habitat.

2. Mulroy Bay SAC site code: 002159

8.58. Description of Site

- 8.59. Mulroy Bay is an extremely sheltered, narrow inlet situated on the north coast of Co. Donegal. The bay is a glacial fiard and the most convoluted of the marine inlets in north-west Ireland. Mulroy Bay displays excellent examples of three habitats listed on

Annex I of the E.U. Habitats Directive – reefs, large shallow inlets and bays and mudflats and sandflats not covered by seawater at low tide. Within Mulroy Bay a large intertidal area occurs around Island Roy and Carrigart. Here the sediment is largely sand to coarse sediment with polychaete *Pygospio elegans* occurring in moderate to low abundances. Nematodes, the bivalve *Cerastoderma edule* and the polychaete *Scoloplos (Scoloplos) armiger* occur in low abundances. The oligochaete *Heterochaeta costata* is abundant at Carrigart.

8.60. **Qualifying Interests at risk within the Mulroy Bay SAC**

8.61. Having regard to the NIS submitted, the nature and scale of the proposed work and the location of the qualifying interests of the Mulroy Bay SAC relative to the proposed works, I consider that the following are the specific qualifying interests that are at risk of potential impact. Reefs are discounted based on their location significantly removed from the proposed works and the dilution and distribution action of the river and sea. Impacts have the potential to arise from habitat disturbance due indirect loss of habitat due to potential spread of invasive plant species and loss of habitat due to deterioration of water quality arising from construction works which could give rise to accidental spillages of contaminants:

- Large shallow inlets and bays
- Otter

8.62. Potential impacts relating to each QI will be examined hereunder, it is important to note at this juncture that the overriding conservation objective of the Mulroy Bay 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.

8.63. **Large Shallow inlets and bays**

8.64. These qualifying interests are present throughout the Mulroy Bay SAC and do not occur within the proposed works area. This habitat occurs to the northeast of the site c. 1km from the proposed works. The site is hydrologically linked to the proposed works site via works to the bridge over the Umlagh Stream. Impacts to large shallow inlets and bays relate to water quality which would impact the viability of habitats and species present within them. Such impacts could arise from accidental spillage of

contaminants during construction or the storage of materials in close proximity to the Umlagh Stream.

8.65. Otter

8.66. Otters are known to utilise the shoreline of the Mulroy Bay SAC for commuting purposes to the northeast of the proposed works c. 1km from the development site. It is stated within the NIS submitted that it is plausible that Otters would also utilise the banks of the Umlagh Stream in a limited capacity given the characteristics of the low stream banks and the limited vegetation present. Potential impacts to otter relate to water quality that could affect the availability of prey. As aforementioned water quality impacts could arise from the storage of materials or accidental spillage of contaminants in close proximity to the Umlagh Stream, over which a section of the works will be carried out. Noise impacts are not anticipated as any otters present in the general area would be habituated to traffic and pedestrian noise along the R248 and within the wider area.

8.67. Mitigation measures

8.68. In order to prevent impacts to qualifying interests of both the Sheephaven SAC and Mulroy Bay SAC arising, the following mitigation measures are proposed. It is important to note at this juncture, given the concerns raised within the DAU submission, that no works are proposed within the areas whereby qualifying interests are present.

- Protective fencing and signage to be erected at the works area to prevent ingress into areas containing Protected Habitat.
- Construction vehicles and engines to be checked daily for leaks,
- No refuelling will occur on site and,
- No disposal of any effluent or liquids will occur within the development site.
- Spill kits will be available on site and,
- An exclusion buffer around drainage will be provided to ensure that adequate separation distances are provided to protect watercourses from contamination.
- Identification of suitable areas for material storage purposes which are removed from the qualifying interests listed above and the Umlagh Stream

8.69. With regard to invasive plant species, it is proposed to:

- conduct a pre-construction survey to identify any additional plant growth within the works area.
- All such invasive plants will be taped off to prevent accidental ingress by machinery or personnel.
- Any works in the vicinity of these plants will be supervised by an Ecological Clerk of works and will be undertaken outside of bird breeding season and fruiting season so as to minimise berry dispersal.
- All biosecurity measures outlined within the Invasive Species Management Plan will be enforced by the ECoW.
- An ECoW will be present for critical parts of the works and will be present for the setting out of the works corridor and opening up of new ground.
- Location of drainage channels away from the existing qualifying interest listed above
- Use of a geotextile membrane within drains to prevent any contaminants generated by road users from entering the protected habitats or surrounding lands.
- Toolbox talks will be given to construction workers to ensure that ecological protection measures are carried out and complied with.

8.70. All mitigation measures are outlined within both the NIS submitted and the associated appendices. These measures will be considered in the context of potential impacts within the following integrity test.

8.71. **Potential in-combination effects:**

8.72. In combination effects include the general usage of the surrounding area, 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.

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

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

Integrity Test

8.75. 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 leakage of fuels and lubricants or other such contaminants from construction vehicles and processes has been dealt with within the mitigation measures outlined in Section 7 of the NIS submitted. All machinery will be checked prior to entering the works area and all fuel, lubricants and hydraulic fluids will be kept away from the works area, machinery will be inspected on a daily basis to ensure leaks are not present.

8.76. 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 pollution of waters and contamination of Protected Habitats are acceptable.

8.77. With regard to impacts arising from the encroachment of the proposed works onto protected habitat within the Sheephaven SAC, namely the Atlantic Salt Meadows, Petalwort, Machair and Fixed Coastal Dunes with herbaceous vegetation (grey dunes), I note that the applicant proposes to separate the proposed works from these areas by protective fencing and proposes to install signage to ensure workers are aware that no encroachment into these areas is permitted. I further note that all works are proposed within the existing grass verge and are clearly stated as not encroaching into these habitats. Mediterranean Salt Meadows are located across the road from the proposed works and are therefore adequately separated from the proposed area by the existing carriageway. No works are proposed in the vicinity of this habitat.

8.78. Based on the information submitted I am satisfied that the proposed mitigation measures in relation to prevention of ingress by workers or vehicles onto areas comprising of Atlantic Salt Meadows, Petalwort, Machair and Fixed Coastal Dunes with herbaceous vegetation (grey dunes) are acceptable and will prevent any damage to these Protected Habitats. I am further satisfied that impacts relating to

Mediterranean Salt Meadows can be discounted due to the location of this habitat which is removed from the proposed works. Nonetheless, should the Board be minded to grant permission I consider it prudent to impose a condition which seeks the prevention of storage or parking of construction vehicles directly adjacent to this habitat in order to ensure that the integrity of this habitat is maintained.

8.79. With regard to the spread of invasive plant species, I note that an Invasive Species Management Plan has been submitted and is appended to the NIS. Biosecurity measures outlined within this plan and mitigation measures outlined within the NIS seek to ensure that all existing invasive plant species are identified prior to construction. It is stated that any such plants will be fenced off and a protective buffer provided so as to avoid contact with these plants and prevent any spread. In the event that invasive plant species are required to be removed, this will be carried out in accordance with the methodology outlined within the Invasive Species Management Plan and will be disposed of accordingly.

8.80. Based on the information provided I am satisfied that the applicant has adequately demonstrated the location of existing invasive species and am satisfied that these species can be adequately avoided and/or managed subject to the preventative and management measures proposed.

8.81. I am therefore satisfied that the proposed works will not give rise to the spread of invasive plant species within the surrounding area and will therefore not adversely affect the integrity of the adjacent European sites.

8.82. With regard to water quality impacts, I note that no stockpiling of materials will occur adjacent to the Umlagh Stream and a suitable storage area removed from all QIs listed above will be agreed prior to commencement of development. The risk of impacts to water quality at this location are therefore unlikely and the proposed development will therefore not give rise to impacts in relation to Otter or Large Shallow inlets and bays.

8.83. **Conclusion**

8.84. I have considered the location of the qualifying interests of both the Sheephaven SAC and the Mulroy Bay SAC in relation to the proposed works and the existing context of the site removed and separated from these qualifying interests and I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed

development, individually or in combination with other plans and projects would not adversely affect the integrity of the European site no. 001190 or site no. 002159 or any other European site, in view of the sites Conservation Objectives.

9.0 Recommendation

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

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 code:001190), the Mulroy Bay SAC (site code: 002159),
- (e) the policies and objectives of the Donegal Development Plan, 2018-2024,
- (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,
- (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), the Mulroy Bay SAC (site code: 002159), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Sheephaven SAC (site code:001190), the Mulroy Bay SAC (site code: 002159), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's conservation objectives.

Proper Planning and Sustainable Development/Likely effects on the environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution,

would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in Invasive Species Management Plan and Section 7 of the Natura Impact Statement and associated Appendices, shall be implemented in full. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:

- a) Intended construction practice for the development, including hours of working,
- b) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses,
- c) The management of construction traffic and off-site disposal of construction waste,
- d) Details of materials storage location,
- e) Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness,
- f) The management of local traffic during the works period,
- g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- h) off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil.

Reason: In the interest of protecting the environment and adjacent European Sites and in the interest of public health and safety.

4. Herbicides of the lowest available aquatic toxicity shall only be used within the riparian zone adjacent to the Umlagh Bridge.

Reason: In the interest of safeguarding water quality.

5. All works shall have regard to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter.

Reason: In the interest of the protecting of receiving water quality, fisheries and aquatic habitats.

6. The County Council and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned

and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

7. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the NIS and appended documentation. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interest of nature conservation.

8. No works or storage of materials or construction vehicles will be permitted in areas adjacent to the qualifying interest of the Sheephaven SAC and Mulroy Bay SAC.

Reason: In the interest of protecting the environment, the protection of European Sites

Sarah Lynch
Senior Planning Inspector /
Planning Inspector

13/10 2021