



An
Bord
Pleanála

Inspector's Report

ABP-310897-21

Development	Demolition of shed, construction of house with associated access road and connection to existing waste water treatment plant.
Location	Kill, Dunfanaghy, Co Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2051916
Applicant(s)	Molly Roarty.
Type of Application	Permission.
Planning Authority Decision	To grant.
Type of Appeal	Third Party
Appellant(s)	Allen Robinson.
Observer(s)	None.
Date of Site Inspection	9 th February 2022.
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 0.18ha appeal site is situated to the north of Dunfanaghy village, County Donegal. It lies at the western end of Dunfanaghy Golf Club and the site forms part of their grounds. Vehicular access to the site is from the N56 national road via the golf club lands. Pedestrian access is via a coastal path to the north of the site.
- 1.2. The appeal site comprises an existing maintenance shed for the golf club, the associated yard area, grass embankments surrounding the yard and part of the golf club lands to the east of the maintenance shed. The shed and surrounding yard area is cut into the topography such that the existing pitched roof is at a lower elevation than properties surrounding the site. The eaves of the shed are approximately level with the top of the surrounding embankment (photograph 5).
- 1.3. To the west of the site are one detached houses facing Sheephaven Bay. These are separated from the site by a narrow pedestrian path and a ditch/watercourse (photograph 7) which flows into Sheephaven Bay (piped to the west of the machinery shed). To the south of the site is the appellant's landholding. To the south east is an existing residential development 'Rinn Na Mara' comprising detached two storey properties. A new residential detached unit is currently under construction at the north western end of the estate. Proposed access to the subject site is from the internal estate road which serves Rinn Na Mara.

2.0 Proposed Development

- 2.1. The proposed development, as revised by way of further information submitted on the 9th June 2021, comprises:
 - Demolition of the existing maintenance shed (area 130m², FFL m AOD 4.23, eaves level 6.80m AOD, ridge height 8.59m AOD).
 - Removal of existing hard core surface,
 - Construction of two storey house (213m²),
 - Construction of access roadway to connect with Rinn Na Mara residential development, and
 - Connection to existing foul sewerage treatment plant.

- 2.2. The two storey dwelling will be cut into the site. FFL of the lower ground floor is 3730.00. Upper ground floor has a FFL of 6730.0 and the roof 1018.0. The lower ground floor (bedroom accommodation) has an area of 78.2m² and the upper floor (living space and bedrooms) is 135m². Externally the contemporary dwelling will be finished in a mix of smooth render, aluminium capping to walls, cedar cladding, natural stone cladding and a living roof.
- 2.3. It is stated in the Site Layout drawing that the existing embankments surrounding the existing maintenance sheds will be retained. A gravel finish is proposed to the driveway to allow surface water percolation. Water supply is proposed via a new connection to the public main. Foul water will be disposed of into the existing on site treatment system serving the Rinn Na Mara development, via a single house pumping unit. Surface water from the roof area will be disposed of into a soakpit (20.5m² of distribution pipes), located to the south east of the site (FI response).
- 2.4. The dwelling will be constructed for the applicant's own use. The planning application includes:
- Supporting Statement.
 - Supplementary Rural Housing Application Form.
 - Flood Assessment Report.
 - Natura Impact Statement.
 - Details in respect of proposed soakpit.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 24th June 2021, the planning authority decided to grant permission for the development subject to 10 conditions. These include:
- C1(b) – Prior to commencement of development, applicant to submit revised proposals for soak pit for written agreement.
 - C2 – Occupancy condition.

- C3 – No interference with the right of way at the north western corner of the site.
- C4 – Electrical and telephone services to be underground. Stone finish to be locally sourced.
- C6 – Requires implementation of the landscaping scheme set out on site layout drawing no. MH3019/PL02 (submitted 14th December 2020). Prescribes the trees to be planted on site from a species list.
- C8 – Requires foul effluent to be discharged through the existing treatment plant serving Rinn Na Mara.
- C9 – All mitigation measures in NIS to be implemented.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3rd February 2021 – The report refers to internal reports, reports by prescribed bodies, representations, the planning history of the site and relevant Development Plan policy. In section 5.0 it addresses the matters raised by third party submissions. It considers the development to be acceptable in terms of housing need, design, access and wastewater treatment. Siting of development, on EHSA lands, requires careful assessment. Brownfield nature of site is considered a significant factor in assessment of development. Existing long established path through part of the site will remain unaffected by the development. The report recommends further information in respect of detailed design of soakaway (as per Road Design Report – not on file).
- Appropriate Assessment (17th June 2021) – Considers that, due to the detailed mitigation measures and recommendations of the NIS, the development will not have a significant negative adverse effect on two European sites, Horn Head to Rinclevan SAC and the Horn Head to Fanad Head SPA.
- 18th June 2021 – Considers that permission can be granted with a specific condition to address discharge of surface water. Recommends granting permission subject to condition.

3.2.2. Other Technical Reports

- Road Design – Two reports. First report referred to in Planning Report (3rd February 2021) but not on file. Agrees with conclusions of flood assessment report. Recommends further information on detailed design of proposed soakaway to accommodate surface water. Second report referred to in Planning Report (18th June 2021). Not on file. Considers that the soakpit should be fitted with a hydrobrake system and designed to accommodate all surface water drainage from the site, ensuring that it does not allow the ingress of groundwater.

3.3. Prescribed Bodies

- IFI (21st December 2020) – Requires that work methods do not impinge on nearby watercourse e.g. use of concrete/cement. Work practices to comply with ‘Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters’.
- HSE (19th January 2021) – Recommends conditions requiring applicant to provide details of arrangements for disposal of soils and that foul effluent be directed to Rinn na Mara wastewater treatment system (WWTS) with provision of pump to lift effluent from development to WWTS, alarm system for pump and 48-hour storage capacity for effluent in event of pump failure.

3.4. Third Party Observations

3.4.1. There is one third party observation on file, made by the appellant Allen Robinson (22nd January 2021), the owner of land immediately south of the appeal site (see image 5.4 in observation). The following issues are raised:

- Repeat application to PA ref. 19/51305 and ABP-307496, refused by the Board.
- Validity of application/development of site – PA has not clarified planning status of maintenance shed. Shed to be unauthorised. Application should be deemed invalid, and site should not be redeveloped to facilitate a house. With

permission for a new maintenance shed under PA ref. 19/51369, the site can be reinstated to its original and natural form.

- Finished floor level – Lack of clarity regarding what datum has been used to determine the floor levels. No topographical survey or information on adjacent sea level.
- Errors in application form – Proximity to European site. Excessive trip generation.
- Housing need – Policy basis for applicant’s housing need. Other sites/properties available to applicant.
- Pollution of SAC/NHA – Existing facility knowingly pollutes the SAC/NHA. On-going risk of pollution to SAC/NHA not addressed in AA screening report or NIS. No decontamination measures for potential pollution that exists at the site. Permission should not be granted until issue of contaminated land is addressed/investigated.
- Flood risk assessment – Part of the site was a sandy beach (1995). A large part of the site, including location of house, is at risk of flooding (mix of zone A and B) and is not suitable for residential development (highly vulnerable). Flood risk assessment does not follow requirements of Guidelines for Flood Risk Management. Applicant has not identified the flood zone in which the site is located, uses average high tide level and includes existing defences. No compliance with Development Plan Justification Test or Development Management Justification Test. Inadequate flood mitigation measures to deal with wave overtopping and climate change.

4.0 Planning History

- 4.1. PA ref. 19/51305 and ABP-307496 permission refused by the Board for the demolition of a maintenance shed and construction of a house, on the subject site, on the grounds that the development is situated in an area at risk of flooding and the Board was not satisfied that the development would not give rise to a heightened risk of flooding on the development site or adjacent lands.

- 4.2. Under PA ref. 15/50755 permission granted for construction of 11 no. dwellings (Rinn na Mara), all associated site works and connection to existing pumped treatment system with final discharge to existing sewer.

5.0 Policy Context

5.1. National Policy

- National Planning Framework.
- Flood Risk Guidelines.

5.2. Donegal County Development Plan 2018 to 2024

- 5.2.1. The appeal site lies in the rural area outside of the development envelope of Dunfanaghy, within lands zoned Stronger Rural Area and falling within a designated area of Especially High Scenic Amenity (EHSA).
- 5.2.2. Section 6.3 of the Plan deals with rural housing. It is a stated aim to accommodate development that addresses genuine rural housing need of the rural communities throughout the county with due regard to environmental considerations. Policy RH-P-3 deals with proposals for rural housing in stronger rural areas and requires applicants to demonstrate compliance with specific criteria for rural housing need (rural based activity, vital link to area or exceptional health circumstances). Appendix 4 of the Plan sets out design guidance for one-off housing. Guidelines include integration with the landscape and satisfactory contribution to character of the area.
- 5.2.3. Areas of EHSC are considered to be natural landscapes of the highest quality in the County and are areas which have extremely limited capacity to assimilate additional development. Policy NH-O-7 seeks to protect areas of Especially High Scenic Amenity from intrusive and/or unsympathetic developments.
- 5.2.4. Section 5.4 of the Plan deals with flooding and flood risk. Policy objective F-0-1 requires that all applications for development be assessed in accordance with 'The Planning System and Flood Risk Management - Guidelines for Planning Authorities', (DoEHLG, 2009). Policy F-P-2 and 3 require, where relevant, submission of Flood

Risk Assessments and evidence of compliance with the Justification Test set out in section 5.15 of the Flood Risk guidelines. Policy F-P-4 precludes development where flood or surface water management issues have not been, or cannot be addressed, successfully and/or where the presence of an unacceptable flood risk remains.

5.3. Natural Heritage Designations

- 5.3.1. Immediately north of the appeal site and a small area to the north western part of the site (outside of the embankments surrounding the maintenance shed), Sheephaven Bay is designated as a proposed Natural Heritage Area (pNHA) and Special Area of Conservation (SAC), Horn Head and Rinclevan pNHA and SAC (joint site code 000147). To the east, north and west of the site, coastal areas of Horn Head/Dunfanaghy are designated as a Special Protection Area (SPA), Horn Head to Fanad Head SPA (site code 004194). Other sites occur in the wider area (see attachments).

5.4. EIA Screening

- 5.4.1. Having regard to the nature and modest scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Potential impacts on European sites can be dealt with under appropriate assessment.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The first party grounds of appeal are:
- Matters raised in observations to the planning authority in respect of validity of planning application, flood risk assessment, NIS and impact on Mr Robinson's property.

- Planning Officer's First Report –
 - The Board is required to set out detailed reasons and considerations for its decision, including why not to accept the appellant's concerns (unauthorised status of existing shed, pollution, consequences for conclusions of NIS and adequacy of flood risk assessment) [High Court Review proceedings, no. 134, 2020, The Board of Management of St. Audoen's National School and An Bord Pleanála].
 - Pollution and existing shed – The Golf Club has been granted permission for a new maintenance shed in another location. The ceasing of the use of the shed was not what has been suggested in the appellant's previous observation. [This comment appears to relate to the statement in the Planning Report, 3rd February 2021, that the objector is suggesting that the use of the shed has ceased].
 - NIS – NIS does not address pollution that is happening on site currently. Issue of pollution is not speculation but is acknowledged in planning application documents and previous application documents in respect of the site (submitted on 26th August 2019). Consent can only be given if the competent authority has determined that it will not adversely affect the integrity of relevant European sites. No scientific assessment has been carried out of the stated pollution emanating from the site at present and scientific doubt persists. Board is required to address the matter in detail and state why existing and ongoing pollution can be ignored. [The Board of Management of St. Audoen's National School and An Bord Pleanála].
 - Flood risk assessment – Inappropriate levels and existing defences used for flood risk assessment. No compliance with Development Plan Justification Test or Development Management Justification Test.
- Planning Officer's Second Report
 - Response to FI was not acceptable (detailed design of soakpit). Clarification of further information should have been sought. Absence of important information is not a trivial matter (Balscadden Road SAA Residents Association v An Bord Pleanála 2020/293 JR). Application

lacks hydrological details in respect of soakpits on a site that could flood and which is a source of pollution. Fully scientifically informed AA cannot be carried out in the absence of vital hydrological information.

- Retaining wall – Retaining wall to be erected along southern boundary of site, alongside appellant’s property. Cross section A-A does not accurately reflect difference in ground levels or volume of earth to be supported from appellants property. Actions of construction of wall may result in collapse of appellant’s lands. Concrete retaining wall may be inadequate (sheet piling may be required). The absence of accurate details is not a trivial matter (Balscadden Road SAA Residents Association v An Board Pleanála 2020/293 JR).
- National Marine Planning Framework – Recommends a precautionary approach to development in coastal zones.

6.2. Applicant Response

6.2.1. The appellant made the following comments on the third party appeal (19th August 2021):

- Policy context – Development is consistent with policy context, National Planning Framework (objective 15 and 19), Regional Spatial Economic Strategy – Border Region, Sustainable Rural Housing Guidelines (local needs justification), Flood Risk Management Guidelines (includes a site specific flood risk assessment), Appropriate Assessment of Plans and Projects, Guidelines for Planning Authorities, Board’s previous decision in respect of absence of effects on European sites and policies of Donegal County Development Plan 2018-2024 (local housing need, design and siting, design guide for one-off houses).
- Existing shed – Planning status of the shed is not relevant to the decision made in respect of the proposed development. High Court case (Murphy v An Bord Pleanála, 2009) clarified that the Board could give permission for a proposed development, even if it related to unauthorised development. The matter of unauthorised development is one for the relevant authority.

- Pollution risk – There is no evidence that the existing shed poses a pollution risk.
- Flood risk – Development Plan Justification Test not required given location of development in a rural area. Flood Risk Addendum Report, submitted with response demonstrates Development Management Justification Test not required as the site works and vulnerable aspects of the development are positioned outside of any identified flood risk zones, with adequate freeboard to the residential unit, with reference to 1 in 200 coastal flood event. There is therefore no flooding for the site from tidal waters. The existing embankment is not an existing flood defence, but a long standing man made landscape feature that is part of the terrain in the area.
- Soakpit – Condition no. 1 is appropriate. Circumstances different to case law cited (Balscadden Road SAA Residents Association v An Bord Pleanála, 2020/293 JR). The nature of the proposed works to which the condition relates is included in the application/appeal. Amendments arising from condition no. 1 would not alter the substance of the development applied for or whether relevant parties were denied consultation on such changes.
- Wall and design matters – A block wall is proposed (cross section A-A) entirely within applicant's lands. Adjoining land level identified in FRA addendum report. Wall will be constructed such that it does not impact on third party lands. There is a difference in levels along this boundary and the proposed wall will be constructed to define the embankment. Matters referred to in respect of Balscadden Road SAA Residents Association v An Bord Pleanála are not relevant to this case.

6.3. Planning Authority Response

- 9th August 2021 – Contents of appeal noted. Planning authority relies on consideration of recommendations contained in Planning Reports (18th June 2021 and 3rd March 2021). No recent planning history on subject site. No enforcement case pertaining to existing shed. This does not mean that the existing shed has the benefit of permission.

6.4. Observations

- None.

6.5. Further Responses

6.5.1. On the 24th August 2021 and 20th September 2021, the Board circulated the applicant's response to the appeal (Appendices omitted from first notice). The following responses were made:

- Planning authority (8th September 2021) – No new issues raised.
- Appellant (13th September 2021) – References to policy noted. If Board grant permission for the development, it must attach an occupancy condition. Potential for pollution has not been addressed in response to appeal. Message from the case, it is beneficial to have carried out unauthorised development. Presence of existing unauthorised shed should not influence Board's decision. Applicant has not assessed flood risk from adjacent water course. Flood maps provided are unclear (no indication of flood zone). Development relies on bank to protect from flood water (Image 5.3 from Addendum FRA). Embankment is broken by to north west of maintenance shed and would permit tidal ingress. No consideration of overtopping or climate change in FRA. Soakpit design, to comply with condition no. 1, could alter the substance of the development. Levels on submitted drawings are inconsistent with difference in levels on site between the site and appellant's lands.
- Appellant (11th October 2021) – Calculates that if freeboard requirements for climate change are taken into account, the finished floor level of the proposed dwelling should be between 4.28m and 4.48m OD as opposed to proposed 3.73m OD. No localised assessment of wave overtopping.
- Planning authority (11th October 2021) – No further comments on appeal.

7.0 Assessment

7.1. Having inspected the appeal site, examined the application details and all other documentation on file and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal can be confined to the matters raised by parties, namely:

- Housing need.
- Planning status of existing shed.
- Pollution risk.
- Flood risk
- Soak pit
- Retaining wall and design.

7.2. Housing need

7.2.1. Under ABP-307496 the Board considered that the applicant had demonstrated a bona fide rural housing need. I do not therefore intend to re-examine this issue as there is no material change in the circumstances of the applicant.

7.3. Planning status of existing shed

7.3.1. There is no record on file of any planning applications in respect of the appeal site and the planning authority accept that there is no planning history or enforcement case pertaining to the shed. I would accept therefore that the planning status of the shed is ambiguous, and it may comprise unauthorised development. This is a matter for the planning authority. However, the Board is not precluded from considering an application for development for a site which includes unauthorised structures (Murphy v An Bord Pleanála, 2009). Further, the inclusion of a structure with an unauthorised status does not invalidate a planning application.

7.3.2. The PA report states that the brownfield nature of the site is considered a significant factor in the assessment of the development. I note the appellant's concerns in respect of this i.e. that in the absence of a valid permission or pre-1963 status, the existing use of the site should be disregarded in making a decision on the proposed

development. Whilst I acknowledge this point, the shed is an existing and longstanding structure. It is evident in the 1995 OSi aerial photography and in subsequent series (2005 etc.). The development may therefore fall outside of the timescale in which the planning authority can take enforcement action.

Consequently, I consider that it is appropriate in this instance to have regard to the brownfield nature of the site in assessing the merits of the proposed development.

7.4. **Pollution risk**

- 7.4.1. In the applicant's Supporting Statement, submitted with the planning application, the following statements are made under the heading SAC/NHA and in the table 'Existing condition – Betterment offered by proposed':

'The existing area surrounding the maintenance shed is used as a yard for storage of machinery, materials, chemicals and fertilisers in large quantities used in the maintenance of the golf course – uses which would not normally be permitted within an EHSA designation' and against this 'The proposed residential use will remove the industrial type risks to the environment'.

'The existing storm water discharge is not controlled and contamination by oil and diesel used in the machinery is an ongoing issue' and against this 'The proposed storm water discharge will be controlled by the use of permeable ground cover materials such as gravel etc.'

- 7.4.2. It is evident from the foregoing that (a) the storage of materials on site gives rise to a risk of pollution, and (b) the storm water discharge is not controlled and there is an on-going issue of contamination by oil and diesel.
- 7.4.3. The matter of on-going pollution is a matter for the planning authority. For the subject development, the construction of the proposed dwelling will entail significant earth works on the small site, directly adjoining a European site. Given the applicant's statement with regard to on-going contamination, it is appropriate that the matter is addressed in the application for the proposed development, for example, by requiring assessment of soils in advance of construction and a detailed construction methodology for the movement, re-use and disposal of soils. Further, it is appropriate therefore that the appropriate assessment process has regard to the

potential for contaminated soils. This matter is addressed further below under Appropriate Assessment.

7.5. Flood risk

- 7.5.1. The appeal site is situated directly adjoining the coast and the flood plain for tidal flooding. The finished floor level of the existing shed (FFL 4.23m AOD) is elevated above the level of the coastal path to the north of the site by c.2m. The appeal site is largely surrounded by embankments separating the site from the sea, with the top of the embankment is approximately level with the eaves height of the existing shed (photograph 5). This is shown as 6.8m AOD on the Site Layout drawing (EL of existing shed) and the drainage layout (Appendix A of Flood Risk Assessment) indicates a top of bank level of c.6m AOD. To the north west corner of the existing shed and the proposed dwelling, the level of the embankment falls. I estimate the low point of the bank to be just above the FFL of the existing maintenance shed (photograph 4). It is stated in the Flood Risk Report that the site to the south of the appeal site is c.1.3m above the FFL of the existing shed (Appendix A of Flood Risk Assessment). This is apparent from the site inspection, (see also photograph 7, Flood Risk Report) with the existing site cut into the landscape.
- 7.5.2. Surface water drainage from the appeal site is directed towards the stream that runs along the western boundary of the site. The stream extends back to the N56 and takes surface water from the Rinn na Mara housing development and discharges to the shore via a c.900mm concrete pipe under the coastal path. It is stated in the Flood Risk Report that the invert level of the pipe is c. 3.1m below FFL of the existing shed. The stream is open for a section to the south of the site (photograph 7 of attached photographs and no. 6 of Flood Risk Report) and it is stated in the Flood Risk Report that the area allows for storage of storm water during periods of high tide. I note that all FFLs are indicated as above Malin Head Ordnance Datum (page 5 Flood Risk Report). The proposed dwelling is constructed over two floors, with a flat roof. FFL of the lower floor is 3730.0, upper floor 6730.0 and main roof 9730.0. Bedroom accommodation is provided at lower ground floor level.
- 7.5.3. The applicant's Flood Risk Assessment considers the risk of tidal, fluvial and pluvial flooding. Risk of tidal and fluvial flooding effectively are ruled out on the basis that

average high tide levels (2.14m AOD) are lower than the proposed FFL of the dwelling (3.72m AOD). Risk of pluvial and ground water flooding are ruled out primarily due to the proposals to discharge surface water to a soakpit and FFL of site above adjoining stream. The FI response and Addendum to Flood Assessment Report, submitted in response to the appeal, refers to the location of a small section of the site, north west corner, in the existing zone for low probability of flood exceedances. The area is stated to be outside of the embankments surrounding the site, where no works will occur. Further, the Addendum report refers to the National Coastal Extreme Water Level Estimation Points and to predicted water levels for all scenarios. It is stated that the area of the site affected by flooding is outside of the existing embankment, no works are proposed within the flood plain and the predicted water levels (ranging from 2.8-5.71m AOD) are all below the highest point of the existing embankment (5.94m AOD).

7.5.4. The government's guidelines on The Planning System and Flood Risk Management require the planning system to:

- Avoid development in areas at risk of flooding, especially floodplains, unless there are wider sustainability grounds that justify the development and where flood risk can be adequately managed,
- Adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk, and
- To incorporate flood risk assessment into the process of decision making on planning applications and appeals.

7.5.5. The guidelines refer to justification tests at development plan and development management level. The proposed development comprises an application for a site specific development and the development plan justification test is not warranted or relevant.

7.5.6. The north western part of the appeal site lies outside of the embankment around the existing maintenance shed. It lies within the area of regular tidal flooding and would equate to Flood Zone A, probability of flooding is high. The applicant argues that the Flood Risk Assessment and Addendum report demonstrate that a development management justification test is not warranted as the site works and vulnerable

aspects of the development are positioned outside of any identified flood risk zones, with adequate freeboard to the residential unit.

7.5.7. I have the following concerns with the approach taken by the applicant:

- The applicant's conclusions in respect of the site (absence of flooding) are predicated on the presence of the embankment that currently surrounds the site.
- The embankment is therefore acting as a flood defence.
- In order to construct the proposed dwelling, the embankment will be altered (e.g. to install retaining wall along the northern side of the dwelling).
- There are no details regarding the existing profile of the embankment or how it will be altered as a consequence of the development (with potential for erosion of its depth and functionality as a flood defence).
- The embankment does not extend at maximum height around the perimeter of the proposed development site, but is lower at the north eastern corner.
- Flood risk has not been examined for the actual arrangement of embankment on site.
- Data from the Irish Coastal Wave and Water Level Modelling Study, 2018, Phase 1 – Extreme Water Levels (October 2020) referred to in the applicant's Flood Risk Assessment Addendum Report indicates extreme water level estimates for the present day and increase in sea level by 0.5m:

Present day (FFL lower ground floor 3.73):

- Low risk, 1 in 1000 year flood event, 0.1% AEP = 3.71.
- Moderate risk, 1 in 200 year flood event, 0.5% AEP = 3.48.
- High risk, 1 in 10 year flood event, 10% = 3.05.

Sea level rise 0.5m (FFL lower ground floor 3.73):

- Low risk, 1 in 1000 year flood event, 0.1% AEP = 4.21.
- Moderate risk, 1 in 200 year flood event, 0.5% AEP = 3.98.
- High risk, 1 in 10 year flood event, 10% = 3.55.

- Whilst there is an element of freeboard above current moderate and high risk flood event levels, there is no allowance for the effects of climate change and a risk of flooding of the lower ground floor.
- There is no assessment of the risk posed by pluvial flooding in conjunction with a tidal event or effect of wave.

7.5.8. Having regard to the foregoing, I am not satisfied that the applicant has adequately addressed the risk of flooding on the appeal site. The Board may wish to seek further information from the applicant in this regard, for example to include detailed topographical survey, detailed treatment of bank, risk of flooding with bank profile and required freeboard. They may also wish to require omission of the lower ground floor to facilitate attainment of required FFL above flood levels. In the absence of this information, I would recommend that permission be refused on the grounds of flood risk.

7.6. Soak pit

7.6.1. The applicant proposes directing surface water to a soakpit with sediment trap to the south east of the site. The soakpit will accommodate water from the roof of the dwelling. Surface water on the remainder of the site will percolate to ground.

7.6.2. In June 2021 the applicant submitted further information in respect of the design of the soakpit (20m² in area, minimum depth 0.5m). Subsequent to the submission of FI, the planning authority considered that the soakpit should be fitted with a hydrobrake system and designed to accommodate all surface water drainage from the site, ensuring that it does not allow the ingress of groundwater. This issue is dealt with by condition, with condition no. 1(a)(i) requiring the soak pit to be designed to accommodate all surface water drainage from the site while ensuring that it does not allow for ingress of groundwater, and (ii) soak pit to be fitted with hydrobrake system (to control flows).

7.6.3. The appellant argues that the application lacks hydrological details in respect of the soakpit on a site which could flood and which is a source of pollution. Given the absence of information on the characteristics of the site, depth to ground water (and therefore viability of proposed system to manage surface water), extent of area required to serve the site as a whole and issues raised in respect of flooding, I would

consider this is an aspect of the development which in this instance requires to be detailed in advance of permission.

7.7. Retaining wall and design.

- 7.7.1. The FFL of the proposed dwelling is 3.73m AOD. This compares to a level of 5.33m AOD on the adjoining land to the south i.e. a difference of 1.6m. This difference in levels is reflected in section AA. With appropriate construction methodology, there is no reason why the proposed retaining wall, which is quite modest in size, cannot be constructed in the proposed materials and within the confines of the appeal site.

8.0 Appropriate Assessment

- 8.1.1. Compliance with Habitats Directive. The requirements of Article 6(3) of the Habitats Directive as related to screening for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 8.1.2. Background. The applicant's 'Natura Impact Statement for a dwelling and associated works at Kill, Dunfanaghy, Co. Donegal' provides a screening report for Appropriate Assessment. The Screening Report was prepared in line with current best practice guidance. It provides a description of the proposed development, identifies European Sites potentially affected by the development, identifies and describes likely individual and cumulative effects and assesses the likely significance of these on European sites. The Report concluded that of the European sites within a 15km radius of the site, the proposed development has the potential to impact on Horn Head and Rinclevan SAC and Horn Head to Fanad Head SPA. Accordingly, it recommends appropriate assessment, stage 2, be carried out in respect of these two sites.
- 8.1.3. Having reviewed the documents, and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- 8.1.4. Test of likely significant effects. The project is not directly connected with or necessary to the management of a European Site. The proposed development is

therefore examined in relation to any possible interaction with European sites, to assess whether it may give rise to significant effects on these.

8.1.5. Project Description. The proposed development is described in section 3.1 of the applicant's Natura Impact Assessment and in section 2 of this report.

8.1.6. Submissions and observations. Submissions on the application were made by IFI and HSE (see section 3.3).

8.1.7. European Sites. The appeal site lies immediately south of Horn Head and Rinclevan SAC. Other sites lie in the wider area (see attachments and appendix 2c and 2d of NIS) which include:

- Horn Head to Fanad Head SPA, a large site which at its nearest is c.1.4km to the east of the site.
- Sessiagh Lough SAC, a small site c.2km to the south east of the appeal site.
- Sheephaven Bay SAC, a large site designated around Sheephaven Bay, which at its nearest is c.3.6km to the south east of the site.
- Tranarossan and Melmore Lough SAC, a site that includes coastal areas on the Downings/Melmore head peninsula. At its nearest the site is c.6km to the north east of the appeal site.
- Muckish SAC, a site designated around Muckish mountain, c.6km to the south of the site.

8.1.8. Qualifying interests and connectivity with the appeal site are considered below.

European site (code)	Qualifying Interests	Distance	Connections	Considered further in screening
Horn Head and Rinclevan SAC (000147)	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]	Adjoining to north	Yes – hydrological and proximity.	Yes

	<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>			
Horn Head to Fanad Head SPA (004194)	<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>Pyrrhocorax pyrrhocorax</i>) [A346]</p> <p>Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p>	1.4km north east	Yes – hydrological and proximity.	Yes

<p>Sessiagh Lough SAC (000185)</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>Najas flexilis</i> (Slender Naiad) [1833]</p>	<p>1.8km south</p>	<p>No – upstream and inland of appeal site.</p>	<p>No</p>
<p>Sheephaven SAC (001190)</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p><i>Salicornia</i> 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>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>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>Euphydrias aurinia</i> (Marsh Fritillary) [1065]</p>	<p>3.6km west</p>	<p>No – Removed from site, separated by substantial body of water and Portnablagh headland.</p>	<p>No</p>

	Petalophyllum ralfsii (Petalwort) [1395]			
Tranarossan and Melmore Lough SAC (000194)	<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> <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>Humid dune slacks [2190]</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>Petalophyllum ralfsii (Petalwort) [1395]</p>	6.1km east	No - Removed from site, separated by substantial body of water.	No

Muckish SAC (001179)	Alpine and Boreal heaths [4060] Siliceous rocky slopes with chasmophytic vegetation [8220]	6.1km south	No – physically removed and inland of site.	No
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8.1.9. The European sites and their conservation objectives.

8.1.10. Having regard to the source, pathway target model and the modest scale of the development, large body of water separating the appeal site from Sheephaven Bay and Tranarossan and Melmore Lough SACs, the potential for significant effects can be excluded on Sessiagh Lough SAC, Sheephaven Bay SAC, Tranarossan and Melmore Lough SAC and Muckish Sac. The following European sites are considered for further assessment:

Horn Head to Rinclevan SAC

8.1.11. This SAC extends from Dunfanaghy north and west to Dooros Point and includes diversity of habitat types and associated species. The cliffs at Horn Head are of importance for seabirds and New Lake, c.1.3km west of the site and Dunfanaghy is managed as a Wildlife Sanctuary by NPWS. In the vicinity of the site, NPWS identify the fixed dune system, embryonic dunes and machair grassland of interest. These occur to the north east of the appeal site (Appendix 2b, NIS).

8.1.12. Conservation objectives are to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected with reference to certain attributes and targets e.g. habitat area, distribution, vegetation composition and population size.

Horn Head to Fanad Head SPA

8.1.13. This site is also extensive and includes separate sections of coastal areas at Horn Head and Fanad Head. It includes land to the west of the appeal site and Dunfanaghy, around New Lake, and a small area c.1.4km to the east of the site, north of Portnablagh. The main feature of the site are bird species of conservation interest.

8.1.14. The generic conservation objective for the site is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation

Interests for this SPA. In the vicinity of the appeal site, NPWS identify the cliffs around Horn Head as important for nesting seabirds (Fulmar, Cormorant, Shag, Kittiwake, Guillemot, Razorbill, Black Guillemot, Puffin, Herring Gull, Great Black-backed Gull and Common Gull) and New Lake/Rinclevan and the dunes to the west supporting nationally important populations of Greenland White fronted Goose and Barnacle Goose and other waterfowl.

8.1.15. Identification of likely effects. The proposed development could give rise the following effects on the European sites:

- Habitat loss/fragmentation/damage within European sites as a consequence of construction activities and practices, given the proximity of the development to the Horn Head to Rinclevan SAC and inclusion of part of the SAC in the site area.
- Deterioration in water quality as a consequence of contaminated surface water during construction and operation, with indirect effects on water dependent species of conservation interest.
- Noise and disturbance, affecting mobile species of conservation interest during construction and operation.
- Cumulative effects with other plans or projects in the area.

8.1.16. Mitigation measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.2. **Screening Determination.**

8.3. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having regard to the proximity of the subject site to European sites and the nature of the development and its potential effects, it is concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site Nos. 000147 and 004194, in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.

8.4. Appropriate Assessment

- 8.4.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 8.4.2. Compliance with Article 6(3) of the EU Habitats Directive. Article 6(3) of the EU Habitats 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 before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- 8.4.3. Screening determination. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in combination with other plans or projects will not have a significant effect on Horn Head and Rinclevan SAC and Horn Head to Fanad SPA. Measures intended to reduce or avoid significant effects have not been considered in the screening process.
- 8.4.4. The NIS. Section 4 of the applicant's 'Natura Impact Statement for a dwelling and associated works at Kill, Dunfanaghy, Co. Donegal' examines and assesses potential adverse effects of the proposed development on the above European sites. The applicant's NIS was prepared in line with current best practice guidelines. It:
- Provides a synopsis of the European sites and the status of qualifying interests of the site.
 - Identifies potential significant effects on the SAC and SPA as a consequence of the development by reference to the sites conservation objectives.
 - Sets out mitigation measures in respect of site works, to protect water quality and minimise noise and disturbance.
 - Examines the potential for cumulative or in-combination effects.

- 8.4.5. The NIS concludes that with the mitigation measures set out in the report, there would be no significant adverse effect on the integrity of any European site, as a result of the proposed development.
- 8.4.6. Having reviewed the documents, submissions and consultations I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of Horn Head and Rinclevan SAC and Horn Head to Fanad Head SPA alone, or in combination with other plans and projects.
- 8.4.7. Summary of consultations and submissions. As above.
- 8.4.8. Appropriate Assessment of the Implications of the Proposed Development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites 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. The assessment has been guided by national and EC guidelines on appropriate assessment.
- 8.4.9. European sites.
- 8.4.10. The following sites are subject to Appropriate Assessment:
- Horn Head to Rinclevan SAC, and
 - Horn Head to Fanad Head SPA
- 8.4.11. A description of the sites and their qualifying interests and conservation objectives are included in the applicant's NIS and summarised above. I have also had regard to the Natura 2000 data forms and supporting documentation for the sites through the NPWS website.
- 8.4.12. Aspects of the Proposed Development. As stated in the screening report, above, potential effects could arise from the development to the detriment of the qualifying interests and conservation objectives of the European sites. These are:
- Habitat loss/fragmentation/damage within European sites as a consequence of construction activities and practices, given the proximity of the development

to the Horn Head to Rinclevan SAC and inclusion of part of the SAC in the site area.

- Deterioration in water quality as a consequence of contaminated surface water during construction and operation, with indirect effects on water dependent species of conservation interest.
- Noise and disturbance, affecting mobile species of conservation interest during construction and operation.
- Cumulative effects with other plans or projects in the area.

8.4.13. Assessment of Effects on Conservation Objectives – Horn Head and Rinclevan SAC

- *Embryonic shifting dunes.*
- *Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes).*
- *Fixed coastal dunes with herbaceous vegetation (grey dunes).*
- *Dunes with *Salix repens* ssp. *argentea* (*Salicion arenariae*).*
- *Humid dune slacks.*
- *Machairs (* in Ireland).*
- *Oligotrophic to mesotrophic standing waters with vegetation of the *Littorelletea uniflorae* and/or *Isoeto-Nanojuncetea*.*
- **Vertigo geyeri* (Geyer's Whorl Snail).*
- **Halichoerus grypus* (Grey Seal).*
- **Petalophyllum ralfsii* (Petalwort*
- **Najas flexilis* (Slender Naiad).*

Habitat Loss/Fragmentation

8.4.14. The appeal site lies immediately south of Horn Head and Rinclevan SAC.

Construction works are proposed within the existing perimeter embankments, and are outside of the SAC. The location of qualifying interests of the SAC are set out in the NPWs document 'Conservation Objective Series' (attached). The document indicates that the identified qualifying objectives are largely removed from the appeal site. The nearest features of interest to the site lie to the north east of it on the dune system that extends into Sheephaven Bay. This includes embryonic dunes, shifting dunes, fixed dunes and machair. However, all of these features are more than c.300m from the appeal site. Having regard to the forgoing, I am satisfied that the development will not give rise to any direct loss or fragmentation of habitat, that is identified as a qualifying interest of the SAC. Sheephaven Bay immediately north of the appeal site provides habitat for Grey seal. However, there is no loss or erosion of coastal waters as a consequence of the development.

Water quality

- 8.4.15. Given the proximity of the appeal site to Sheephaven Bay, any pollution of surface water on the site and its subsequent discharge into the sea, has potential to impact on water quality with indirect effects on water quality dependent habitats and species. This could arise from surface water heavy with sediment, hydrocarbons, or if present, contaminants (from soils on site), with potential effects arising during construction and to a lesser extent operation. Impacts from foul water are unlikely, under normal conditions, as the site will be connected to the mains sewer via pump.
- 8.4.16. In section 4.4 and 4.5 the NIS sets out measures to prevent adverse polluting events during construction and operation. These include limiting construction works to area within the perimeter embankment, provision of sediment screens at appropriate locations, site preparation works outside of the breeding season, adherence to IFI best practices for works at river sites, careful management of cement/concrete, bunding of fuel storage tanks (construction) modest increase in hard surface, management of stormwater via a soakaway with sediment/oil filter (operation).
- 8.4.17. In principle, the proposed measures are not unreasonable and if carried out in accordance with best practice, I am generally satisfied that no adverse effects on water quality will arise as a consequence of the development. With regard to the risk of contaminated soils, this matter could be addressed by condition i.e. requiring an assessment of soils in advance of construction works and agreement on appropriate arrangements for the movement or disposal of any contaminated soils.
- 8.4.18. Under flood events, if coastal waters inundated the site, effects on water quality arising from washing out of the surface water drainage system could arise. However, extent of contaminants (if washed into waters) is unlikely to be significant in the context of the volume of water affected. Foul water structures (holding tank, pump and pipework) are likely to be watertight and not be affected by inundation. This matter could be further addressed by condition.

Noise and disturbance

- 8.4.19. During construction, noise levels are likely to be temporarily elevated. However, effects will dissipate with distance from the site and are unlikely to affect any of the habitats of qualifying interest or species that are removed from the site.

8.4.20. Sheephaven Bay north of the appeal site, forms part of the recognised habitat of Grey Seal. Measures to maintain the favourable conservation condition of the species include to prevent artificial barriers to Grey Seal use of the site, protection of breeding, moulting, resting sites and for human activities to occur at levels that do not adversely affect grey seal populations. The proposed development does not impede Grey Seal access to the Bay and the site is removed from breeding and resting sites which are to the north of Horn head. The appeal site lies comprises an existing maintenance shed which lies on the edge of an existing built up area. Grey Seal occurring in the area of the site will already be subject to noise and human disturbance, and short term construction noise from a single dwelling is unlikely to adversely affect individuals or the population within the European site.

8.4.21. During operation, use as a single dwelling, is unlikely to give rise to any substantial increase in human activity.

Cumulative effects

8.4.22. Section 4.6 of the NIS identifies a small number of planning applications in the vicinity of the site. Developments which have been granted permission recently have been subject to appropriate assessment or screening for appropriate assessment with no adverse effects identified. The proposed development will add to cumulative human activity in the area. The Natura 2000 Standard Data Form identifies a number of threats and pressures on the SAC. These reflect the substantial area of the site and are fishing, grazing, quarries, mowing/cutting of grassland, walking/horse riding, discharges, disbursed development, fire, peat extraction, forestry, sport/golf and fertilisation. The proposed development is for a single dwelling, situated adjoining the existing settlement and does not pose a risk of significant cumulative effects.

8.4.23. Assessment of Effects on Conservation Objectives – Horn Head to Fanad Head SPA

- *Fulmar (Fulmarus glacialis) [A009]*
- *Cormorant (Phalacrocorax carbo) [A017]*
- *Shag (Phalacrocorax aristotelis) [A018]*
- *Barnacle Goose (Branta leucopsis) [A045]*
- *Peregrine (Falco peregrinus) [A103]*
- *Kittiwake (Rissa tridactyla) [A188]*
- *Guillemot (Uria aalge) [A199]*
- *Razorbill (Alca torda) [A200]*

- *Chough (Pyrrhocorax pyrrhocorax) [A346]*
- *Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]*

Habitat Loss/Fragmentation

8.4.24. The appeal site lies outside of and removed from the Horn Head to Fanad Head SPA. There will be no habitat loss or fragmentation as a consequence of the development.

Water Quality

8.4.25. The Horn Head to Fanad Head SPA Site Synopsis and Natura 2000 Standard Data Form indicate that it is the sea cliffs and the cliff tops which provide the breeding, roosting and feeding ground for species of conservation interest. The NIS acknowledges that the site is removed from the main area of interest for bird species but states that several species have been recorded in the area. Neither the bird species nor the area in which they are recorded are indicated. Notwithstanding this, as discussed above subject to the full implementation of mitigation measures, significant effects on water quality are unlikely.

Noise and Disturbance

8.4.26. The appeal site is situated adjoining an urban area, alongside an existing coastal path and is currently used as a maintenance shed. Consequently, any bird species in the area of the site are likely to be habituated to the noise environment. Construction noise will take place in this wider urban context and the applicant proposes construction works outside of the bird breeding season to mitigate effects. During operation, disturbance from a single dwelling, within an existing urban environment is unlikely to be significant. The applicant proposes measures to prevent light spillage with hooded or downward facing lights facing away from Sheephaven Bay. Subject to these measures, significant adverse effects on bird species of conservation interest to the European site are unlikely.

Cumulative effects

8.4.27. As stated above, section 4.6 of the NIS identifies a small number of planning applications in the vicinity of the site. Developments which have been granted permission recently have been subject to appropriate assessment or screening for appropriate assessment with no adverse effects identified. The proposed development will add to cumulative human activity in the area. The Natura 2000

Standard Data Form identifies a number of threats and pressures on the SPA. These reflect the substantial area of the site and are walking/horse riding, motorised vehicles, restructuring of agricultural holdings, fertilisation, paths/tracks, modification of cultivation practices, camping and caravanning, invasive species, quarries (removal of beach material) and erosion. The proposed development is for a single dwelling, situated adjoining the existing settlement and does not pose a risk of significant cumulative effects on European sites.

8.4.28. Mitigation

8.4.29. Mitigation measures have been referred to above in this assessment. They typically involve implementation of standard good construction practices and specific measures to minimise impacts on bird species. I am satisfied that the measures referred to are reasonable and adequately reduce the effect of the development on the environment.

8.4.30. Integrity Test

8.4.31. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Horn Head to Rinclevan SAC, and Horn Head to Fanad Head SP in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

8.5. **Appropriate Assessment Conclusion**

8.5.1. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177 V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Horn Head and Rinclevan SAC (000147) and Horn Head and Fanad Head SPA (004194). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

8.5.2. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not

adversely affect the integrity of the European sites Nos. 000147 and 004194 or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the project and there is no reasonable scientific doubt as to the absence of adverse effects.

9.0 Recommendation

9.1. I recommend that permission be refused for the proposed development.

10.0 Reasons and Considerations

The proposed development is situated in an area which is at risk of flooding. Notwithstanding the provision of a site specific flood risk assessment, the Board is not satisfied that the proposed development would not give rise to a heightened risk of flooding either on the proposed development site or on adjacent lands. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann
Planning Inspector

23rd February 2022