



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313882-22

---

<b>Development</b>	Construction of supermarket and all associated site development. NIS accompanied application
<b>Location</b>	Station Road, Carndonagh, Lifford Po, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2152068
<b>Applicant(s)</b>	Lidl Ireland GmbH.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Gerry Doherty.
<b>Observer(s)</b>	N/A.
<b>Date of Site Inspection</b>	25 <sup>th</sup> of July 2023.
<b>Inspector</b>	Stephanie Farrington

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	8
3.4. Third Party Observations .....	9
4.0 Planning History.....	9
5.0 Policy Context.....	10
5.1. Development Plan.....	10
5.2. Natural Heritage Designations .....	16
5.3. EIA Screening .....	16
6.0 The Appeal .....	18
6.1. Grounds of Appeal .....	18
6.2. Applicant Response .....	21
6.3. Planning Authority Response .....	24
7.0 Assessment.....	24
8.0 Recommendation.....	56
9.0 Reasons and Considerations.....	56
10.0 Conditions .....	56

## 1.0 Site Location and Description

- 1.1. The appeal site is located to the northwest are of Carndonagh town centre, along the R238 Station Road. The site, which has a stated area of approximately 1.2ha, is brownfield and currently occupied by a container unit. The application documentation outlines that the site was previously filled as part of preparation works for a previous development permitted on site under PA Ref:06/70794. This development was never implemented.
- 1.2. Station Road forms the southern boundary of the site and the Glentogher River runs along the site's western boundary. A gabion basket retaining structure is currently provided along the bank of the Glentogher River. The L12712 adjoins the eastern boundary of the site. Access to the site currently provided to the site from Station Road and the L12712. The site boundaries to the south and east include timber fencing and access gates. The site forms part of a larger landholding in the ownership of the applicant (1.9ha) including undeveloped lands to the north. The existing pattern of development in the vicinity of the site includes a mix of commercial and residential uses.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a discount foodstore to include off licence use with a gross floor area of 2,209 sq.m. and a net retail area of 1,400 sq.m. Access to the development is proposed via Station Road and the L12712. 103 no. car parking spaces are proposed to serve the development.
- 2.2. The development includes landscaping, boundary treatment connection to services and all associated development works. Enabling works associated with the development include the diversion of the existing piped Mill Race which runs through the site along a new alignment and diversion of an existing foul water sewer.
- 2.3. The following documentation was submitted in support of the application.
  - Application Cover Letter/Planning Assessment
  - Architectural and Engineering Drawings
  - Retail Impact Assessment

- Traffic and Transportation Assessment
- Stage 1 Road Safety Audit
- Flood Risk Assessment
- Appropriate Assessment Screening and Natura Impact Statement
- Preliminary Construction Environmental Management Plan (CEMP)
- Services Design Report
- Lighting Impact Assessment Report
- Glint and Glare Assessment

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Donegal County Council issued a notification of decision to grant permission for the development subject to 12 no. conditions. The following conditions are of note:

- Condition no. 2 outlines that all mitigation measures set out within the submitted NIS shall be adhered to.
- Condition no. 3 relates to the visibility splays at the proposed vehicular entrances at 49m at a 3m setback.
- Condition no. 7 sets out specifications for the proposed signage.
- Condition no. 8 outlines that opening hours shall be confined to between 0800-2200 hours.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. Planning Reports

###### Initial Planner's Report (08/12/2021)

The initial planner's report recommended a request for further information. The following provides a summary of the key points raised:

###### *Principle of Development*

- The site is an edge of centre site and is provided for under Policy RS-P-3 subject to the provisions of Policy RS-P-5 and RS-P-6.
- The planner's report refers to the RIA submitted in support of the application which includes a sequential test assessment. This report is deemed acceptable to the planning authority.
- The proposed development is supported in principle by the Donegal CDP and Seven Strategic Towns Local Area Plan 2018-2024.

#### *Design and Layout*

- The design of the development is deemed acceptable.
- The planner's report cross refers to the recommendations of the Area Engineers Report which recommends a revised layout incorporating the closure of the proposed entrance from Station Road and revised boundary treatment adjacent to the River Glentogher.

#### *Response to Observation on Application*

- The planner's report provides a summary of and response to the points raised within the observation on the application. The following points are noted:
  - The development is considered to be in accordance with the policies and objectives of the County Donegal Development Plan 2018-2024 and the designation of Carndonagh as a Layer 2A town within the County Retail Strategy 2018-2024 and the Retail Planning Guidelines.
  - In terms of the concern raised in relation to trade diversion from the existing SuperValu in the town, it is stated that the development is in compliance with RS-0-5 of the County Retail Strategy which seeks to provide a diverse and competitive retail environment.
  - The identified catchment area is considered acceptable having regard to the geographical characteristics of the peninsula. The development would bring additional trade to Carndonagh.
  - The planner's report cross refers to the Area Engineers Report in relation to traffic and Flood Risk issues raised.

- In terms of the reference groundwater quality and the previous use of the site as a dump, the planner's report outlines that the site is levelled, hardcore and free from waste. The limited amount of foul water from the development will be disposed of to the existing foul sewer. It is stated that it not considered that the proposal will result in a threat to groundwater at either construction or operational phase of the development.

#### *Appropriate Assessment*

- The planner's report refers to the NIS submitted in support of the application. The Stage II AA determination cannot be undertaken until the design is finalised on foot of the FI request.

#### *Environmental Impact Assessment*

- Having regard to the nature and scale of the development and its location substantially removed from any sensitive locations or features, the applicable EIAR thresholds, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development.
- The planning authority has concluded that the need for an EIA can therefore be excluded at preliminary examination and a full screening determination is not required.

#### *Recommendation*

- The planner's report recommends a request for further information on the points summarised below:
  - Item 1: Revisions to the design and layout of the scheme to omit the proposed access from Station Road, demonstrate how the proposal will not militate against the delivery of the Inner Relief Road and traffic management measures.
  - Item 2: Realignment of the proposed boundary treatment in the vicinity of the Glentogher River to facilitate access for maintenance and provide a Wildlife Riparian Corridor.
  - Item 3: Submission of an Addendum to the NIS to address the revisions to the layout as set out within the FI request.

## Planner's Report on Further Information (19/05/2022)

The planner's report prepared in respect of the FI response recommends a grant of permission subject to conditions in accordance with the Planning Authority's decision. The following provides a summary of the key points raised:

- The report provides a summary and assessment of the applicant's FI response.
- Item 1: The report outlines that the applicant made a tenable argument for the retention of the entrance off Station Road on the basis of the planning history of the site. The planner's report outlines that while no report has been received from the Road Design Office, discussions were undertaken between the Area Engineer and applicant. The proposed double entrance was deemed acceptable to the Roads Department.
- The proposed site layout would not prejudice the delivery of the Inner Relief Road.
- In terms of Item 2, the planner's report outlines that the proposed boundary treatment has been revised to facilitate plant access to the Glentogher River for maintenance access and to facilitate the provision of a Wildlife Riparian Corridor. The revised proposals are deemed acceptable.
- The planner's report refers to the correspondence from the applicants Ecologist which confirms that the NIS submitted in conjunction with the application is sufficient to address the revisions to the development proposed in response to the FI request. The applicant's response to Item 3 of the FI request is deemed acceptable.
- Under the heading of Appropriate Assessment, the Planner's Report outlines that:

*The planning authority has carried out an AA Determination in relation to the proposed development and the mitigation measures proposed in the NIS submitted with the application and has concluded that the development as proposed will not adversely affect the integrity of the adjoining European Sites – North Inishowen Coast Special Area of Conservation (Site Code 002012) and Trawbreaga Bay Special Protection Area (site code 004034).*

### 3.2.2. Other Technical Reports

#### Appropriate Assessment Screening (08/12/2021)

Donegal County Council's Screening Determination outlines the following:

- The Planning Authority has determined that an appropriate assessment of the proposed development is required as it cannot be excluded on the basis of objective scientific information that the proposed development individually or in combination with other plans or projects will have a significant effect on the following European Sites – North Inishowen Coast Special Area of Conservation (site code 002012) and Trawbreaga Bay Special Protection Area (site code 004034).

#### Building Control (04/11/2021)

- No objection subject to conditions.

#### Road Design (29/11/2021)

The roads report outlines the following in respect of the proposal:

- One vehicular entrance should be provided via the L-12712. The entrance from Station Road R238 should be omitted.
- The report sets out specifications for the road finish and outlines that traffic management measures should be provided in the vicinity of the site to accommodate the development.
- A buffer zone should be provided between the site and the Glentogher River.

### 3.3. Prescribed Bodies

#### Department of Housing, Local Government and Heritage (07/01/2022)

- The report outlines that given the scale, extent and location of the development it is possible for subsurface archaeological remains to be present. An archaeological condition is recommended in the instance of a grant of permission.

#### Environmental Health Service (14/12/2021)



- Correspondence from the Environmental Health Service recommends that the application is referred to Uisce Éireann and/or Donegal County Council Sanitary Services Department. Consultation with the Environmental health Officer in respect of food hygiene regulation requirements is recommended.

#### Uisce Éireann (21.11.2021)

- Uisce Éireann's submission on the application raises no objection to the proposal subject to conditions. Recommended conditions include agreement in writing of the detail of the proposals for diversion of the watercourse and wastewater services through the site.

### **3.4. Third Party Observations**

One observation was received during the initial statutory consultation period from the appellant. The key issues raised include the following:

- The retail impact and trade diversion from existing retailers including SuperValu within the town centre.
- The proposal is contrary to the Development Plan objectives which support the vibrancy of town centres.
- The observation questions the need for the proposal and outlines that the catchment area defined within the RIA is overestimated.
- Traffic Impact.
- Flood Risk.
- Previous use of the site as a dump in an area of high groundwater vulnerability.

### **4.0 Planning History**

The following planning history relates to the site.

- PA Ref: 06/70794: Permission granted in November 2006 for a commercial development comprising a retail facility with part first floor offices, adjoining

warehouse with canopy/covered loading/unloading area, on site car parking, diversion of foul sewer and connection to public services.

- PA Ref: 00/5031: Outline permission granted in September 2001 for 22 no. semi-detached dwellings, 2 no. commercial buildings comprising of retail units at ground floor and 12 no. apartments at first floor, 1 no. light industrial unit and all associated development works.

## 5.0 Policy Context

### 5.1. Development Plan

#### Donegal County Development Plan 2018-2024

##### *Settlement Strategy*

- 5.1.1. Table 2A.3 of the Development Plan sets out the Settlement Structure for the County. Carndonagh is designated as a Layer 2A Strategic Town. It is one of eight Layer 2A towns, which are identified due to their existing population base, their infrastructural capacity to accommodate reasonable levels of new housing and their role as key service centres at the sub county level.

##### *Retail Strategy*

- 5.1.2. Section 4.2 of the DCDP sets out the County Retail Strategy for the County. The Retail Strategy seeks to focus retail land uses within the established town centres and outlines that these centres have significant opportunities to accommodate additional retail floorspace.
- 5.1.3. In accordance with the guidance set out within the Retail Planning Guidelines the Retail Strategy outlines that the preferred location for new retail development, where practicable and viable, is within a town centre (or district or major village centre). Where it is not possible to provide the form and scale of development that is required on a site within the town centre then consideration can be given to a site on the edge of the town centre so as to encourage the possibility of one journey serving several purposes.

5.1.4. Table 4.2.1 of the Retail Strategy identifies that Large foodstores (defined as up to 3,000 sq.m. net) can be accommodated within Layer 1 and Layer 2A designated centres.

5.1.5. Relevant Objectives and Policies include the following:

- RS-O-1: To achieve a critical mass of retail uses in the key urban centres of the County in a manner consistent with the Core Strategy and Settlement Strategy.
- RS-O-2: To ensure consistency with the retailing objectives of the Regional Planning Guidelines 2010 and Retail Planning Guidelines 2012 and any subsequent updates of these documents.
- RS-O-3: To promote a diversity of retail types within the County.
- RS-P-2: It is a policy of the Council to consider proposals for Large Foodstores (up to 3000 square metres net) at appropriate locations in Layer 1 and Layer 2A settlements as identified in the Core Strategy, subject to the provisions of Policy RS-P-5 and RS-P-6.
- RS-P-5: It is a policy of the Council that all retail proposals with the potential to impact on the vitality and viability of the relevant centre (or centres) shall be subject to an appropriate sequential test of the site location and proposed retail type in accordance with the Retail Planning Guidelines (2012) or any subsequent iteration of these guidelines. Only proposals that satisfy the sequential approach will be acceptable, save for exceptional circumstances.
- RS-P-6: It is a policy of the Council to require a Retail Impact Assessment where it considers that a retail development proposal is particularly large in scale compared to the relevant settlement in which the site is located. Through the Retail Impact Assessment, the applicant must address the following criteria and demonstrate whether or not the proposal would:
  - (a) Support the long-term strategy for the County's town centres as established in the Core Strategy/Retail Strategy, and would not materially diminish the prospect of attracting private sector investment into one or more such centres;

- (b) Have the potential to increase employment opportunities and promote economic regeneration;
- (c) Have the potential to increase competition within the area and thereby attract further consumers to the area; and
- (d) Respond to consumer demand for its retail offering and not diminish the range of activities and services that an urban centre can support;
- (e) Cause an adverse impact on one or more town centres, either singly or cumulatively with recent developments or other outstanding planning permissions (which have a realistic prospect of implementation) sufficient to undermine the quality of the centre or its wider function in the promotion and encouragement of the arts, culture, leisure, public realm function of the town centre critical to the economic and social life of the community;
- (f) Cause an increase in the number of vacant properties in the primary retail area that is likely to persist in the long term;
- (g) Ensure a high standard of access both by public transport, foot and private car so that the proposal is easily accessible by all sections of society; and/or
- (h) Link effectively with an existing town centre so that there is likely to be commercial synergy.

Only those proposals that can demonstrate to the Planning Authority that the development is not likely to have a significant adverse impact as demonstrated by an assessment of the above criteria, will be acceptable.

#### Seven Strategic Towns Local Area Plan 2018-2024

##### Zoning

- 5.1.6. The appeal site is zoned for “Established Economic Development“ within the LAP with an objective *“To protect and enhance the capacity and operation of areas of Established Economic Development”*.
- 5.1.7. Section 8.5.1 of the LAP outlines that *“The land use zoning map that accompanies this LAP therefore (Map 5 refers), identifies a number of areas of ‘Established Economic Development’ (i.e. areas that are already in commercial use), ‘Opportunity Sites’ and areas of more general ‘Established Development’ where appropriate commercial developments will be considered subject to compliance with all other*

*relevant policy provisions of this Plan, inclusive of all retail policies and objectives”. Policy GEN-ED-2 of the LAP outlines that: “It is a policy of the Council to consider proposals for appropriate new commercial developments (or proposals for redevelopment of or extensions to existing commercial developments) on lands zoned ‘Established Economic Development’ in this LAP (Maps 1-7 refer), subject to compliance with all other relevant policies of this LAP, compliance with the Habitats Directive and subject to all other material planning considerations including environmental considerations”.*

5.1.8. Policy CN-ED-1 of the LAP outlines that:

*It is a policy of the Council to consider proposals for appropriate new commercial developments in Carndonagh (or proposals for redevelopment of or extensions to existing commercial developments) on lands zoned as ‘Opportunity Sites’ (refer to Map 5), subject to compliance with all other relevant policies of this LAP, including the relevant policies for each Opportunity Site set out in section 8.6.3 and ensuring compliance with the Habitat Directive and all other environmental considerations.*

#### Strategic Objectives

5.1.9. Section 2.1.6 of the LAP sets out the Strategic Objectives of the Plan. Strategic Objective 5 seeks SO5: *“To promote the sustainable growth of Carndonagh as a service and tourism destination in north east Donegal, recognising its status as the second largest town on the Inishowen Peninsula and it’s strategic location along the Wild Atlantic Way”.*

#### Town Centre

5.1.10. Section 3.3 sets out measures to safeguard and strengthen town centres within the LAP area. The LAP outlines that *“In order to reinforce the primacy of our town centres, all proposals for retail development within the LAP towns will be subject to the provisions of the ‘Retail Planning Guidelines’ published 2012 including the sequential approach set out in the CDP”.*

5.1.11. Section 8 of the LAP relates to Carndonagh. The LAP outlines that the town is the second largest town in the Inishowen Peninsula after Buncrana and developed as a market and service town for an extensive rural hinterland.

- 5.1.12. The LAP outlines that the town centre of Carndonagh is laid out around a central square or 'Diamond' area, from which the main thoroughfares into the town radiate. A survey of the town centre undertaken in 2017 identified a vacancy rate of 22% within the town. The spatial distribution of vacant units is illustrated on Figure 8.2 of the LAP.
- 5.1.13. Section 8.4.2 of the LAP outlines that the plan aims to strengthen Carndonagh town centre as the economic driver of the settlement and to support it as an attractive and walkable urban environment (Objectives CN-TC-1 and 2 and Policy CN-TC-1 refer).
- 5.1.14. Town Centre Policies and Objectives as set out within the LAP include the following:
- Objective CN-TC-1; It is an objective of the Council to ensure that the town centre of Carndonagh is promoted as the economic driver of the settlement.
  - Objective CN-TC-2: It is an objective of the Council to ensure that Carndonagh town centre continues to develop as a high quality and pedestrian friendly urban environment that is an attractive location for business.
  - Policy CN-TC-1: It is a policy of the Council to consider proposals for appropriate commercial or retail developments within the defined town centre area of Carndonagh (see Map 5), subject to compliance with all other relevant policy provisions of this LAP.

#### Flood Risk

- 5.1.15. Figure 8.5 of the LAP identifies the Flood Events Map for Carndonagh North. The area of the appeal site adjacent to the Glentogher River is identified as Flood Zone A within Figure 8.5. Section 8.8.2 outlines that the Planning Authority will have due regard to the Flood Extents Mapping arising from the SFRA where necessary in the assessment of planning applications during the life of the LAP.

#### Mapped Objectives

- 5.1.16. The LAP zoning map for Carndonagh illustrates an Indicative Route of the Relief Road to the north and east of the appeal site. Section 8.8.3 relates to Infrastructure and Services Objectives. Objective CN-IS-1 is of relevance to the proposal and outlines that: *"It is an objective of the Council to construct an inner relief road on the*

*northwestern side of Carndonagh in order to alleviate traffic congestion and to allow for the more efficient movement of traffic around the town centre”.*

## 5.2. Ministerial Guidelines

### Retail Planning Guidelines for Planning Authorities – Department of Environment Community and Local Government (April 2012)

- 5.2.1. The Guidelines acknowledge that the retail sector is a key element of the national economy in terms of employment, economic activity and the vitality of cities and towns. A key aim of the Guidelines is that the Planning Authority planning system should promote and support the vitality and viability of city and town centres in all their functions.
- 5.2.2. Section 2 outlines five key objectives which are intended to guide and control retail development, namely: -
- Ensuring that retail development is plan-led;
  - Promoting city/town centre vitality through a sequential approach to development;
  - Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;
  - Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel strategy; and
  - Delivering quality urban design outcomes.
- 5.2.3. Section 4.4 contains guidance on the sequential approach to retail development. It outlines an order of priority for retail development, directing the retail development should be located in city and town centres (and district centres if appropriate) and that edge-of-centre or out-of-centre locations should only be considered where all other options have been exhausted.
- 5.2.4. For proposals in edge-of-centre and out-of-centre locations, it must be demonstrated that there are no sites or potential sites either within the city or town centre (or designated district centre) or, as relevant, on the edge of the given centre that are (a) suitable (b) available and (c) viable. Advice is also provided in relation to the issues of suitability, availability and viability.

- 5.2.5. Section 4.11.1 states that large convenience stores comprising supermarkets, superstores and hypermarkets should be located in city or town centres or in district centres or on the edge of these centres and be of a size which accords with the general floorspace requirements set out in the development plan/retail strategy. The guidelines define a supermarket as a single level, self-service store selling mainly food, with a net retail floorspace of less than 2,500sqm.

#### Retail Design Manual

- 5.2.6. The companion document to the Retail Planning Guidelines promotes high quality urban design in retail development, to deliver quality in the built environment. It sets out 10 principles of urban design to guide decisions on development proposals.

### **5.3. Natural Heritage Designations**

- 5.3.1. The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:

- North Inishowen Coast SAC (IE 0002012)- 2.3km
- North Inishowen Coast pNHA – 2.3km
- Carndonagh Wood p NHA – 1km
- Magheradrumman Bog SAC (IE 000168) – 4.8km
- Magheradrumman Bog p NHA (IE 000168) – 4.8km
- Lough Fad West p NHA- 7.1km
- Bulbin Mountain p NHA – 10.4km
- Slieve Snaght Bogs NHA- 3.9km
- Trawbreaga Bay SPA (IE 004034)- 2.3km
- Malin Head SPA (IE 004146) – 13.2km
- Lough Foyle SPA (IE004087) – 11.4km

### **5.4. EIA Screening**

- 5.4.1. An Environmental Impact Assessment Screening report has not been submitted with the application. The Council's Planner's Report outlines that the need for EIA can be excluded at preliminary examination stage and a screening determination is not required.



5.4.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

*(iii) Construction of a shopping centre with a gross floor space exceeding 10,000 square metres.*

*(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)*

5.4.3. The proposed development comprises the construction of a discount foodstore to include off licence use with a gross floor area of 2,209 sq.m. and a net retail area of 1,400 sq.m. on a 1.2ha site. The site area falls below the mandatory threshold and a mandatory EIA is therefore not required.

5.4.4. Regarding sub-threshold EIA, I note that the site is located within the built-up urban area of Carndonagh. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development would not give rise to significant or hazardous waste, pollution or nuisances and would not give rise to a risk of major accidents or risks to human health. Wastewater and surface water would both drain to the public network, upon which their effect would be marginal. I refer to Section 7.7 of this report which addresses Appropriate Assessment. The application is also accompanied by a Flood Risk Assessment and Preliminary Construction Environmental Management Plan.

5.4.5. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site within a built-up area, served by public infrastructure, on lands that are zoned for "Established Economic Development" purposes within the Seven Strategic Towns LAP, and the results of the strategic

environmental assessment of the Strategic Environmental Assessment of the LAP, undertaken in accordance with the SEA Directive (2001/42/EC),

- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.4.6. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development is not necessary in this case (See Preliminary Examination EIAR Screening Form).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third-party appeal was submitted by Brock McClure on behalf of Gerry Doherty (Donagh Traders Ltd) Supervalu Carndonagh, Co. Donegal in respect of the notification of Donegal County Council to grant permission for the development. The following provides a summary of the key planning issues raised:

*Planning Authority failed to adequately assess the proposal:*

- The appeal refers to the notification of decision of Donegal County Council to grant permission for the development subject to 12 no. standard conditions. It is requested that the Board fully assesses the development having regard to the grounds of appeal.

### Edge of Town Development:

- The appeal refers to the location of the site outside of the town centre boundary and refers to the opportunity sites for retail development defined within the LAP.
- The appeal refers to the objectives of the Council to promote vibrant town centres and diverse retail environments, and the existing vacancy rate of 22% within the town centre. It is stated that the location of the development is contrary to this objective.
- The scale and location of the proposal represents a significant threat to the vitality and visibility of Carndonagh town centre. The proposal would saturate the existing convenience retail market and have a detrimental impact on smaller retail stores within the town centre. The development of a multi-national discount store would not support local Irish business.
- The development would result in a cumulative impact on the vitality, viability and primacy of Carndonagh town centre and the demise of local established retailers in the area.

### Negative Impact and Vacancy:

- The overarching aim of the Retail Strategy is to ensure that future retail development is accommodated in a manner which is efficient, equitable and sustainable. The appeal outlines that the development, if permitted, would have detrimental impact on the existing smaller retail premises that existing within the town. The appeal refers to the requirements of Policy CN-TC-1 of the Seven Strategic Towns LAP in this regard.
- Pound Street, Chapel Street, Bridge Street and Malin Street have been identified by DCC as “areas in need of regeneration”. The appeal outlines that the proposal would undermine existing retail within the town and lead to an increase in vacancy resulting from an increase in competitiveness.

### Traffic:

- The appeal raises concern in respect of the proposal for 2 no. vehicular entrances to the site. The appeal refers to DCC’s FI request which required

the omission of the proposed Station Road entrance. This has not been addressed by the applicant.

- The appeal raises concern in relation to existing traffic congestion on the road network in the vicinity of the site particularly during school peak times.
- The appeal states that the proposal is premature pending the delivery of the Relief Road proposed in the Carndonagh LAP. A large-scale retail development should not proceed unless in tandem with the relief road.

Over provision of Retail Developments in the Area:

- The appeal outlines that the justification for the proposal is on the basis of an uninformed and inflated catchment area. The appeal outlines that the catchment area population is overestimated by 57%. If allowed to proceed, the development would increase the retail floorspace in the town by 39%.
- The appeal outlines that with no spare capacity in the local market, the development would impact on local businesses including family run shops, butchers etc.
- The projected sales of €12.5 million would only be possible through damaging trade diversion from other businesses in Carndonagh and other town centres throughout north Inishowen.
- The development would attract a much larger catchment than Carndonagh resulting in increased traffic congestion within the town.
- The appeal outlines that the corporate model of the retailer is contrary to the Council's sustainability aims. The appeal outlines that a high proportion of Lidl's products come from outside of Ireland and has an impact on carbon footprint.

Appropriate Assessment:

- The appeal refers to the potential for construction related impacts on the Glentogher River which flows to the North Inishowen SAC. It is furthermore stated that the site offers potential for birds, bats and otters. The Board is requested to consider the applicant's NIS on this basis.

Conclusion:

- The appeal outlines that the proposal is not in accordance with relevant policy provisions and the proper planning and sustainable development of the area.
- The Planning Authority did not fully assess the traffic or retail impact of the proposal.
- The development constitutes overdevelopment of the area and would have a negative impact on surrounding properties.
- The scale of the development on an out-of-town site is significant and in excess of that required to serve the local needs of the population.
- The development would impact on the vitality and viability of Carndonagh town centre and is contrary to the objectives of the Donegal County Development Plan 2018-2024.
- The Board is requested to refuse permission for the proposed development.

## 6.2. Applicant Response

The Planning Partnership provided a response to the grounds of the appeal on behalf of the applicant. The following provides a summary of the appeal response.

- The appeal response outlines that the grounds of appeal would not warrant a refusal of permission and refers to the potential competition reasons for the appeal.

### Justification for Proposal

- Section 1.3 of the appeal response sets out a rationale for the development. This refers to the Layer 2A designation of Carndonagh within the County Retail Strategy and the need to provide retail development for the town and its extensive catchment.

### Retail Impact – Catchment Area

- The appeal response sets out a rationale for the proposed catchment area on the basis of the designation of Carndonagh as one of 2 no. designated Layer 2A centre's (Carndonagh and Buncrana) which serve the Inishowen Peninsula. The appeal response outlines that Buncrana is served by a discount foodstore.

- Lower designated centres within the catchment area are not identified to accommodate substantive convenience retail floorspace.
- The catchment area is based on a 15-minute drivetime from the town which is extended in outlining areas to the north and reduced where overlaps with the Buncrana catchment occur.
- The appeal response outlines that the proposal can be accommodated in a reduced catchment area.
- The appeal response refers to the draw of Buncrana for convenience retail offer for residents of Carndonagh. It is stated that 18% of shoppers to the Lidl in Buncrana come from the Carndonagh catchment area. The proposal would redress this.

#### Retail Capacity

- Table 1 of the appeal response outlines that there is capacity within the reduced catchment area to accommodate the proposal, existing and future retailers.
- The assessment illustrates that no material retail impacts would arise.

#### Edge of Centre Location

- The appeal response refers to the sequential assessment submitted in support of the application which considers sites within the town centre. The appeal response refers to the constraints of the town centre to accommodate the nature of development proposed. The appeal response outlines that existing convenience retailers are located outside of the main core as illustrated on Figure 2 of the appeal response.
- The appeal response outlines that there are no suitable, viable and available locations to accommodate the development within the town core.

#### Retail Impact on Existing Businesses

- The appeal response outlines that national and local policies support competition in the retail sector. It is stated that the reference to retail impact in the appeal is unsubstantiated.

- There is a requirement for additional retail development in the town to provide competition and claw back diversion of expenditure from the catchment.

#### Non- Food Retail Impact

- Approximately 10% of the retail floor area is proposed as non-food retail. This element of the foodstore represents an ancillary and complimentary activity to the primary convenience offer.
- The “middle isle” element of the discount foodstore is an established part of the business and does not impact on non-food retailers. The retail offer on sale is for varied with goods on sale for a short duration.
- The appeal response outlines that the provision of approximately 142 sq.m. of comparison floorspace within the store, will not materially impact on town centre businesses.

#### Lidl Corporate Model

- The appeal response outlines that the comments in the appeal in this context are baseless and vexatious comments from a competitor.
- The proposed retailer contributes significantly to the Irish economy in terms of sourcing Irish products.

#### Site Access

- There is no rationale for the omission of the access from Station Road and on review of the FI response the Planning Authority deemed the access to be acceptable.
- The principle of access to the site from Station Road was established under PA Ref 06/70794.

#### Traffic Impact/ Congestion at Bridge Street Junction

- The appeal response cross refers to the TTA submitted in support of the application which demonstrates that there is sufficient capacity on the local road network to accommodate the proposal.
- Any existing junction inefficiencies are unrelated to the development, nor would they be exacerbated by the proposal.

- The site is a suitable location for the proposal.

#### Town Centre Vacancy

- The appeal response refers to small scale, limited footprint units in the town centre which are not suitable to accommodate a convenience operator.
- The appeal response outlines that the provision of additional retail floorspace within the town would strengthen the draw of Carndonagh bringing shoppers back into the town.
- The appeal response outlines that a range of factors contribute to town centre vacancy. The response refers to decisions of An Bord Pleanála wherein permission was granted for convenience retailers notwithstanding vacancy levels within a town centre.

#### Appropriate Assessment

- No issue of substance is raised in relation to the applicants NIS.

#### Conclusion

- The Board is requested to consider dismissal of the appeal. DCC's decision addresses the points raised within the appeal. There is no obstacle to granting permission for the development.

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

- None.

### **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development/ Compliance with Policy
- Retail Need and Retail Impact
- Design and Layout



- Traffic Impact and Access
- Other Issues
- Appropriate Assessment

## 7.2. Principle of Development / Compliance with Policy

- 7.2.1. The proposed development seeks permission for the construction of a licensed discount food to include off licence use with a gross floor area of 2,209 sq.m. and a net retail area of 1,400 sq.m. and associated site works at Station Road, Carndonagh, Co. Donegal.
- 7.2.2. Carndonagh is designated as a Layer 2A centre within the Donegal County Retail Hierarchy. The policies and objectives of the development plan support the enhancement and diversification of the retail offer of Layer 2A designated centres.
- 7.2.3. Policy RS-P-2 supports the development of large foodstores (up to 3,000 sq.m.) net at appropriate locations in designated Layer 1 and Layer 2A centres subject to the provisions of Policy RS-P-5 (compliance with sequential test) and RS-P-6 (submission of a RIA). The principle of the development of a convenience foodstore of the scale proposed within Carndonagh is therefore accepted at appropriate locations.
- 7.2.4. I note the grounds of appeal which raise concern in relation to the principle of a proposed multi-national retailer within Carndonagh and the carbon footprint of the retailer. In this regard, I note that Policy RS-03 of the Donegal Retail Strategy seeks to promote a diversity of retail types within the county.
- 7.2.5. The appeal raises concern in relation to the siting of the proposed development at a location removed from the town centre of Carndonagh and includes conflicting references to the location of the site as both an edge of town and out of centre location. The Retail Planning Guidelines support the provision of retail development within town centres. This objective is carried forward in Policies RS-P-2 and RS-P-5 of the Donegal County Development Plan which relate to the provision of large foodstores at “appropriate locations” within Layer 2A centres and compliance with the sequential test.
- 7.2.6. The site is located approximately 200m to the northwest of the traditional core of Carndonagh town centre along Station Road and benefits from linkages within the

retail core. The character of development in the vicinity of the site is primarily commercial in nature. I consider that it would fall within the definition of an edge of centre site as set out within the Retail Planning Guidelines.

- 7.2.7. The site zoned for “Established Economic Development” within the Seven Strategic Towns Local Area Plan 2018-2024, with an objective *“To protect and enhance the capacity and operation of areas of Established Economic Development”*. Policy GEN-ED-2 supports proposals for appropriate new commercial developments on lands zoned for “Established Economic Development” purposes subject to compliance with all other policies and objectives of the LAP. The site is located within an area identified within a generalised town centre area as identified within Figure 8.4 of the LAP.
- 7.2.8. Policy RS-P-5 of the DCDP outlines that a sequential test shall be submitted in support of retail applications with the potential to impact on the vitality and viability of town centres. The Retail Planning Guidelines support the development of retail within town centres and outlines that edge of centre locations will be considered where it has been demonstrated that there are no potential sites which are (a) suitable (b) available and (c) viable within town centres.
- 7.2.9. A sequential test assessment is included as Section 2.6 of the Retail Impact Assessment submitted in support of the application. The RIA refers to the characteristics of the town core of Carndonagh which is defined by small narrow plots and outlines that significant site assessembly would be required to facilitate the development at this location.
- 7.2.10. 6 no. locations are identified to accommodate the proposal. Site 2 is the appeal site and Site 1 is located at a location further removed from the town centre than the appeal site and is in this regard not considered sequentially preferable. The sequential assessment outlines that sites 3 and 4 are not available for development and sites 5 and 6 are not suitable on the basis of the guidance for future development for these sites as set out within the Carndonagh LAP.
- 7.2.11. On site inspection, I noted the fine urban grain of the retail core and acknowledge the constraints of the traditional core to accommodate the nature of the development proposed. I note that existing large convenience retailers in the town are located at edge of centre locations as illustrated on Figure 2 of the applicant’s appeal response.

7.2.12. On review of the RIA, I am satisfied that the applicant has demonstrated that there are no suitable, available and viable sites closer to the town centre to accommodate the proposal. I am satisfied that the appeal site is a suitable location for a convenience store of the scale proposed. The site is located in proximity to and benefits from pedestrian linkages with the retail core of Carndonagh. I consider that the siting of the development is in compliance with the requirements of Policy RS-P-5 of the DCDP and national policy requirements in this regard.

### *Conclusion*

7.2.13. Having regard to the above reasons and considerations I consider that the principle of the development of a convenience foodstore on an edge of centre site in Carndonagh is acceptable and in accordance with the designation of Carndonagh as a Layer 2A centre and the objectives of the Seven Strategic Towns LAP and the Donegal County Development Plan which seek to promote a diversity of retail types within the County.

## **7.3. Retail Need and Retail Impact**

7.3.1. The primary grounds of appeal relate to the retail impact of the proposed development on existing retailers within Carndonagh town centre. Policy RS-P 6 of the DCDP requires a Retail Impact Assessment in instances where it is considered that a proposal is particularly large in scale compared to the settlement in which it is location. A Retail Impact Assessment prepared by The Planning Partnership was submitted in support of the application in accordance with the requirements of Policy RS-P-6 of the Donegal County Development Plan.

7.3.2. The RIA outlines that there is sufficient capacity within the identified catchment area to support the development and the proposed development will not result in material retail impact on Carndonagh town centre, centres within the catchment area or centres within the wider area.

7.3.3. The appeal questions a number of the underlying assumptions set out within the RIA. In particular, it is stated that the catchment area defined for the purposes of the assessment is overstated and that there is no capacity within the town's retail catchment to accommodate the scale of development proposed. The appeal raises concerns in relation to the impact of the large-scale proposal on the vitality and

viability of Carndonagh town centre through increasing vacancy and trade diversion are also raised within the appeal. I consider the points raised in turn as follows.

#### *Catchment Area*

- 7.3.4. Section 3 of the applicants Retail Impact Assessment sets out the Quantitative Assessment of the development. This identifies the capacity for additional retail floorspace within the defined catchment area and assesses retail impact and trade diversion.
- 7.3.5. Figure 8 of the applicant's RIA identifies a catchment area for the development which extends to the north and east of the Inishowen Peninsula. Table 4 of the RIA outlines that on the basis of the 2016 Census results and having regard to the potential holiday home population within the area a population of 22,326 is assumed. The appellant asserts that the defined catchment area is overstated, and that the town currently has a catchment of less than 15,000 persons.
- 7.3.6. A justification for the identified catchment area is set out within the RIA and the applicant's response to the grounds of appeal on the basis of the designation of Carndonagh as one of two Layer 2A designated centres (Carndonagh and Buncrana) which serve the Inishowen Peninsula. Carndonagh serves a large rural hinterland including the northern and eastern portion of the Inishowen Peninsula. The applicants appeal response outlines that the catchment area is defined on the basis of a 15minute drivetime from the town, extended to include the outlying areas of the peninsula and reduced to the south to prevent overlap with the Buncrana catchment area. I note that Carndonagh is the only Level 2A centre within the catchment which serves a large rural catchment. I consider that the applicant's justification for the proposed catchment is reasonable.
- 7.3.7. I note that the applicant has provided a revised and refined catchment area in response to the grounds of appeal. This is illustrated on Figure 1 of the appeal response. The refined catchment area omits the existing peripheral areas of the north and northeast of the Inishowen peninsula. The population of the reduced catchment area is identified as 18,276. I do not consider that there is a rationale for the refined catchment area. I am satisfied that these remote areas of the catchment would be served by Carndonagh.

#### *Capacity for Proposed Development*

- 7.3.8. The appeal questions the quantitative retail need/capacity of the catchment area of Carndonagh to accommodate the proposal. At the outset, in considering the grounds of appeal I note that Carndonagh is designated as a Layer 2A retail centre within the Donegal County Retail Hierarchy which serves a large rural catchment. The policies and objectives of the Donegal County Development Plan and Retail Strategy support the enhancement and diversification of the retail offer of Layer 2A centres. Policy RS-P-2 of the DCDP supports the development of large foodstores at appropriate locations in Layer 1 and Layer 2A towns.
- 7.3.9. The capacity for additional retail floorspace within the catchment area is addressed in Section 3.4 and 3.5 of the applicants RIA. Table 8 of the RIA identifies that there is sufficient capacity for the proposed development within the catchment area in 2024 to accommodate the proposal with an additional spare capacity for between 2,088 to 3,151 sq.m. of additional convenience floorspace. Table 1 of the applicants' appeal response furthermore details the capacity for the proposal on the basis of a reduced catchment area.
- 7.3.10. I note that the outcome of a quantitative assessment is determined by a number of underlying assumptions including assumptions on catchment, expenditure per capita, estimates on turnover per sq.m. on existing and proposed floorspace, growth rates in expenditure per capita etc. I acknowledged that the assumptions set out within a retail impact statement can be subject to dispute. In the instance of the subject RIA I consider that a clear and reasonable justification is provided for each assumption. On the basis of the information set out within the application and appeal I am satisfied that the applicant has demonstrated that there is sufficient retail capacity within Carndonagh to accommodate the proposal.

#### *Vacancy Levels*

- 7.3.11. I note the comments regarding vacancy within the town centre as set out within the grounds of appeal and the appellants assertion that the proposal will lead to an increase in vacancy within the town centre. The Carndonagh LAP identifies a vacancy rate of 22% within the town centre. A low vacancy level is identified as one of the indicators of a healthy town centre as identified within the Retail Planning Guidelines.

- 7.3.12. Section 2.5 of the applicant's RIA addresses retail vacancy within Carndonagh. The RIA outlines that the limited anchor/destination offer of the town centre is likely to be a contributing factor to town centre vacancy. The RIA outlines that the proposal would strengthen the draw of the town and have spill over benefits for existing retail units.
- 7.3.13. On site inspection I note that vacant units within the town are small in scale and not confined to any particular area. The town centre units would not be of a scale or format to accommodate the scale of development proposed. I consider that the proposal would diversify the retail offer of Carndonagh and have spin off benefits for existing retailers within the town centre.

#### *Trade Diversion*

- 7.3.14. The appeal raises concern in relation to trade diversion from existing retail units within the town centre. Concerns relating to the impact of both the convenience and comparison "middle isle" element of the proposal are raised in this context.
- 7.3.15. The proposed discount foodstore has a net retail floor area of 1,400 sq.m. split between 1,278 sq.m. of convenience floorspace and 142 sq.m. of comparison floorspace. The RIA assumes that the convenience element of the discount foodstore will generate a turnover of €12.5million per annum on the basis of an assumption of a turnover per sq.m. of €9,831 for the development in 2024.
- 7.3.16. Section 3.6.3 and Table 9 of the applicant's RIA addresses Convenience Trade Diversion and Retail Impact. The RIA assumes that proposal will derive a large portion of the turnover of the proposed store from existing larger centres including Letterkenny (20%), Derry City (20%) and Buncrana (25%). It is assumed that 25% of the turnover of the store would be diverted from Carndonagh and a further 10% from other centres within the catchment area. The RIA concludes that the proposal will not result on a material level of retail impact on centres within the catchment or within the wider area.
- 7.3.17. I consider that the assumptions on trade diversion are reasonable and agree with the assertion of the applicant that the main turnover of the store is likely to be generated from claw back of leakage of convenience expenditure from the catchment area. I agree with the conclusions of the RIA that the proposal is not likely to generate a

material level of retail impact on Carndonagh town centre or existing centres within the catchment area.

- 7.3.18. I furthermore note the reference within the applicant's appeal response that 18% of shoppers in the Lidl in Buncrana are in the Carndonagh catchment area. At present I consider that the lack of competition in the convenience retail market in the area is leading to unsustainable travel patterns for convenience shopping. I consider that the proposal would diversify and enhance the retail offer of Carndonagh and have spin off benefits for existing retailers within the town.
- 7.3.19. The appeal raises concern in relation to the impact of the comparison "middle isle" section of the store on existing retail units on Carndonagh town centre. The appeal response refers to the middle isle range which are on sale for a short period. I also note that the only 10% of the proposed net retail area is devoted to the sale of comparison goods (140 sq.m.). I do not consider that either the limited scale or characteristics of this format of retail floorspace would result in a negative impact on existing comparison floorspace within Carndonagh town centre. I consider that the limited scale of comparison retail floorspace proposed is not of a level that would warrant a retail impact assessment.

#### *Conclusion*

- 7.3.20. On an overall basis, I consider that the expansion of the retail offer of the town would claw back expenditure loss from the catchment area and reduce unsustainable travel patterns. Through the diversification of the retail offer, and associated expansion of the consumer base of the town, I consider that there is potential for spin off benefits for existing retailers within the town centre.

#### **7.4. Design and Layout**

- 7.4.1. The proposed development comprises the construction of a discount foodstore to include off licence use with a gross floor area of 2,209 sq.m. and a net retail area of 1,400 sq.m. The store is sited along the western site boundary and served by 103 no. surface car parking spaces. Access to the site is proposed via Station Road and the L12712.
- 7.4.2. A justification for the design and layout of the development is set out within the Planning Statement prepared by The Planning Partnership submitted in support of

the application. The layout seeks to provide a glazed frontage to Station Road and a landscaped urban edge to Glentogher River. The proposed finishes include a neutral pallet of materials and extensive glazing.

- 7.4.3. I consider that the applicant has provided a justification for the scale and nature of development proposed. I consider that the proposal has been appropriately designed to respond to the site characteristics and I do not consider that the development represents a scale or format of development which would negatively impact on the visual amenities of the area. I consider that the design of the development is modern in appearance and is in accordance with the existing pattern of development in the vicinity of the site.
- 7.4.4. The design statement outlines that the layout and design of the proposed development has had regard to the adjoining lands in the ownership of the applicant and their development potential. It is stated that the lands to the north are intended to be developed separately in the short to medium term. I note that any future development of the site will be subject to a separate application which will be assessed on its individual merits.

#### **7.5. Traffic Impact and Access**

- 7.5.1. The appeal raises concerns in relation to the proposed access arrangements, traffic impact of the proposal and associated congestion on the local road network. The appeal furthermore outlines that the proposal is premature in the absence of the delivery of the Inner Relief Road for the town. I consider the points raised in turn as follows.

##### *Proposed Access*

- 7.5.2. The appeal site is currently undeveloped with levelled hardcore surface. Access to the site is proposed via a splayed entrance from Station Road and a second access from the L12712 to the northeast of the site. Station Road operates within a speed limit of 50kmph and includes footpaths and public lighting.
- 7.5.3. The submitted TTA outlines that sightlines of 49m x 2.4m can be provided at the proposed site entrance in accordance with the requirements of DMURS. This is illustrated within Drawing no. 21016-1020 submitted in support of the application.



The development, as revised in response to DCC's request for further information, also includes a maintenance access to Glentogher River from Station Road.

- 7.5.4. The appeal raises concerns in relation to the provision of 2 no. access points to the development. I refer to DCC's request for further information which requested the omission of the proposed entrance from Station Road in accordance with the recommendations of the Road Design Office in DCC. The applicant's FI response sets out a rationale for the proposed dual access on the basis of the character of development in the area and the planning history of the site wherein the principle of access from Station Road was established.
- 7.5.5. The planner's report which informs the decision of Donegal County Council to grant permission for the proposal outlines that discussions were undertaken between the Area Engineer and the applicant, and the proposed double entrance was deemed acceptable to the Roads Department. I have no objection to the principle of the access arrangements as proposed. I do not consider that the proposed access would result in unsafe turning movements or give rise to potential for traffic hazard.
- 7.5.6. The Road Safety Audit submitted in support of the application sets out a number of recommendations for improvement of the safety of the development. I note that concern is raised within the RSA in respect of the width of the access from the L12712 and potential for conflict with pedestrian crossings. I consider that the recommendations of the RSA should be implemented, and a Stage 2 RSA shall be submitted for written agreement of DCC in the instance that the Board is minded to grant permission. I consider that this point can be addressed by means of condition.
- 7.5.7. The applicants TTA outlines that the proposed site access from the L12712 will operate as a secondary access to the site and will also serve the adjoining lands to the north of the site within the applicant's ownership site. I consider that the tie in of the proposed access road within the adjoining site to the north is unclear within the application drawings and should be subject to clarification. I consider that this point could be addressed by means of condition in the instance that the Board is minded to grant permission for the development.
- 7.5.8. Drawing no. 3020 "Site Layout Plan" illustrates an outline of indicative development on the site to the north. I consider that any future development and associated

access arrangements to this site would be subject to a future application which would be assessed on its individual merits.

### *Traffic Impact*

- 7.5.9. The appeal raises concern in relation to traffic impact associated with the development and resultant impact on congestion on the local road network. A Traffic Impact Assessment prepared by Stephen Reid Consulting was submitted in support of the application. I have had regard to the contents of same in considering the proposal and the grounds of appeal.
- 7.5.10. Traffic counts were undertaken on the local road network on the 20<sup>th</sup> of May 2021. The following junctions were assessed – R238 Main Street roundabout junction, R238/ Bridge Street junction and at the R238/ Recycling Centre access road junction. The TTA outlines that the peak hours on the local road network is 9am-10am and 15.00pm-16.00 pm. Table 5.2 of the TTA outlines that the proposal will generate 134 no. 2 way vehicle trips during the am peak period and 261 no. trips during the pm peak. A weekday daily total of 1,298 trips is envisaged.
- 7.5.11. Section 6 of the TTA addresses the traffic impact of the proposal. Tables 6.1 and 6.2 present the impact of the development on Station Road in both directions during the am and pm peaks. Table 6.1 illustrates a 19% impact on Station Road southwest and a 13.6% on Station Road northeast during the AM peak in the 2027 design year. Table 6.2 illustrates a 27.3% impact on Station Road southwest and 17.2% impact on Station Road northeast during the PM peak in 2027. The TTA outlines that Station Road has a capacity of 3,600 vehicles per hour. The TTA outlines that the proposal will not have significant impact on Station Road during the AM and PM peak.
- 7.5.12. Section 6.4 of the TTA outlines that the result of the modelling of the junction at the 2037 design year demonstrates that the junction has adequate capacity to accommodate peak hour traffic flows with no queueing on Station Road.
- 7.5.13. In terms of deliveries, the applicants TTA outlines that a single delivery will be undertaken per day to the stores which will be scheduled outside of the peak hours at a time when there is lower customer activity.

7.5.14. On the basis of the information sets out within the TTA and the applicant's appeal response, I am satisfied that the existing road network in the vicinity of the site has capacity to accommodate the proposed development and that the proposal will not result in significant congestion on Station Road with minimal queuing and delays for traffic exiting from the development access roadway.

#### *Inner Relief Road*

7.5.15. I refer to the Indicative Route for the Relief Road to the north of the appeal site as illustrated within the LAP zoning map. Objective CN-IS-1 of the LAP outlines that: *It is an objective of the Council to construct an inner relief road on the northwestern side of Carndonagh in order to alleviate traffic congestion and to allow for the more efficient movement of traffic around the town centre*".

7.5.16. The appeal outlines that the proposed large scale retail development should be provided in tandem with the Inner Relief Road. The impact of the proposal on the objective to provide the Inner Relief Road was raised within DCC's request for further information.

7.5.17. Drawing no. 3020 submitted in response to the FI request illustrates that the proposal will not negate against the delivery of this road. I am satisfied that the proposal would not preclude the delivery of the Inner Relief Road and do not consider that the proposal is premature pending the delivery of this road. I do not consider that the proposal would be contrary to the requirements of Objective CB-IS-1 of the Seven Strategic Towns LAP in this regard.

#### *Car and Cycle Parking*

7.5.18. The proposed development includes the provision of 103 no. surface level car parking spaces to serve the foodstore (including 4 no. access and 6 no. parent and child spaces and 2 no Electric Vehicle charging points). The parking standards set out within Table 6 – Appendix 3 of the Donegal County Development Plan set out a requirement for 1 space per 20 sq.m. of publicly accessible car parking space. This would equate to the provision of 71 no. parking spaces to serve the development. The TTA outlines that, on the basis of parking requirements in existing stores in similar locations, that this would result in an under provision of parking. I consider that the proposed car parking provision is acceptable to serve the nature of development proposed.

7.5.19. The development includes the provision of 5 bicycle parking cycle stands with capacity to accommodate 10 bicycles in proximity to the store entrance. This provision is in accordance with Development Plan standards.

#### *Conclusion*

7.5.20. In conclusion, I consider that traffic impact associated with the development will be limited and consider that the proposal can be accommodated within the existing local road network. I consider that the principle of the proposed access arrangements are acceptable and consider that the proposal will not negate the delivery of the proposed relief road.

### **7.6. Other Issues**

#### *Dismissal of Appeal*

7.6.1. The applicants appeal response outlines that the appeal is vexatious and anti-competitive and requests that the appeal is dismissed on this basis. I note that the appeal raises concern in relation to the siting and principle of the proposal, compliance of the development with planning policy and retail impact and traffic impact concerns. I consider that sufficient grounds of appeal are set out and I have assessed the application on its merits.

#### *Ecology*

7.6.2. The appeal refers to the potential of the site to accommodate birds, bats and otters. The applicant's NIS refers to the characteristics of the site which includes bare grounds and scrub which has been infilled. The NIS outlines that no bird, flora or terrestrial mammal species of conservation importance was encountered on-site inspection. All works associated with the development will be confined to the site area.

7.6.3. Section 6.17-6.19 of the Preliminary Construction Environmental Management Plan (PCEMP) submitted in support of the application outlines that there shall be on-going monitoring of wildlife in the vicinity during the construction phase of the development. In the instance that unexpected ecological habitats are uncovered habitats protection protocol will be adhered to.

7.6.4. I consider that habitats within the wider area including treelines, hedgerows and open water may have potential for commuting and foraging bats or otters due to the

presence of open grassland, treelines, hedgerows and areas of open water. Section 6.17 of the PCEMP outlines that mature trees with the potential to provide bat roosts will be avoided. I consider potential impacts on otter within Section 7.7 of this assessment.

### Flood Risk

- 7.6.5. The Glentogher River is located to the west of the appeal site and the Carndonagh Stream (Mill Race) flows under the development site. The proposed development includes the diversion of the existing mill race on site. A Flood Risk Assessment prepared by JBA Consulting was submitted in support of the application. Potential flood sources are addressed within Section 3 of the FRA. The FRA outlines that the site is not at risk of coastal flooding and there is no known risk of groundwater flooding in the area.
- 7.6.6. No information on pluvial/surface water flooding is available for the site. In terms of Pluvial flooding, permeable paving and SUDS measures are incorporated within the scheme to ensure that run-off rates from the site do not exceed pre-development levels. No objection to the proposal is raised by Donegal County Council and I consider that the proposal will not result in undue surface water flooding.
- 7.6.7. In terms of fluvial flooding the FRA outlines that the development portion of the is located on Flood Zone C lands and there is no history of flooding on the site. A portion of the site adjacent to the Glentogher River is located on lands identified as Flood Zone B within the applicant's FRA. I note that this area of the site is identified as Flood Zone A within Figure 8.5 Carndonagh North Flood Events Mapping of the Seven Strategic Towns LAP. The building footprint or car parking area does not extend to this portion of the site. The FRA outlines that the development will not increase fluvial flooding on the site. The proposed retail development is identified as a less vulnerable development within the Flood Risk Management Guidelines.
- 7.6.8. Having regard to the information submitted in support of the application, I consider that the applicant has demonstrated that the risk of flooding to the proposed development is low and will not exacerbate flood levels within the site or surrounding area. The area of the appeal site in which development is proposed would be classified as Flood Zone C in the context of the Flood Risk Management Guidelines

wherein the proposed retail use would be deemed an appropriate “less vulnerable” use.

#### Site Services

- 7.6.9. The development includes a number of enabling works to facilitate the proposal including the diversion of the existing piped Mill Race which runs through the site along a new alignment and diversion of an existing foul water sewer. A description of these works is set out within Sections 3.1 and 3.2 of the Services Design Report prepared by SDS Design Engineers submitted in support of the application and illustrated on Drawing no. 1025 “Site Layout Plan showing foul sewers and surface water pipelines”.
- 7.6.10. I refer to the observation on file received from Uisce Éireann. I note that no objection is raised in relation to the principle of the proposed development subject to conditions. Such conditions include consultation with Uisce Éireann in relation to the design and construction of the trunk sewer diversion and agreement of details in relation to the diversion of the watercourse prior to the commencement of development. I consider that this can be addressed by means of condition in the instance that the Board is minded to grant permission for the development.

#### Contamination / Pollution

- 7.6.11. The appeal raises concern in relation to potential contamination associated with the previous use of the site and potential impact on groundwater pollution. Section 6.3 of the Preliminary Construction Environmental Management Plan submitted in support of the application sets out measures for addressing potential contamination on the site to negate against land and groundwater pollution. The measures set out include the undertaking of a Site Characterisation and Assessment prior to the commencement of development on the site. Subject to adherence to the measures set out within the CEMP I am satisfied that the development of the site will not result in pollution of groundwater.

#### Archaeology

- 7.6.12. I note the contents of the submission on file from the Department of Housing, Local Government and Heritage (07/01/2022) which recommends the inclusion of an archaeological condition in the instance of a grant of permission. I recommend the

inclusion of same in the instance that the Board is minded to grant permission for the development.

## **7.7. Appropriate Assessment**

### *7.7.1. Compliance with Habitats Directive.*

The requirements of Article 6(3) of the Habitats Directive as related to screening the need 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.

### *7.7.2. Background*

An Appropriate Assessment Screening and Natura Impact Statement prepared by Altemar was submitted in support of the application.

The Screening Report was prepared in line with current best practice guidance. It provides a description of the proposed development and identifies European Sites within a possible zone of influence of it. The Report concluded that potential impacts may occur on the North Inishowen Coast SAC and Trawbreaga Bay SPA given the location of the European sites in relation to the proposed development, existing hydrological connections and the characteristics of the proposal. It is concluded that the project must proceed to the next stage of Appropriate Assessment, Natura Impact Assessment.

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.

### *7.7.3. Test of likely significant effects.*

The project is not directly connected with or necessary to the management of a European site. I furthermore note that the site and all works associated with the proposed development are intended to take place outside of the above referenced SACs and SPAs. As a result, there would be no direct loss of habitat within these European sites.

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.

7.7.4. *Project Description and Site Description.*

Section 4 of the applicant's Stage 1 Screening Assessment sets out a detailed description of the proposed development.

7.7.5. *Submissions and Observations*

The third party appeal outlines that the site is sensitive and raises concern in relation to impacts on Natura 2000 sites arising from the construction phase of the development.

The planner's report which informs the decision of DCC to grant permission for the development outlines the following:

*The planning authority has carried out an AA Determination in relation to the proposed development and the mitigation measures proposed in the NIS submitted with the application and has concluded that the development as proposed will not adversely affect the integrity of the adjoining European Sites – North Inishowen Coast Special Area of Conservation (Site Code 002012) and Trawbreaga Bay Special Protection Area (site code 004034).*

7.7.6. *European Sites*

Table 1 of the applicants AA Screening Assessment identifies 5 no. designated Natura 2000 sites within 15km of the appeal site and the qualifying interests and conservation objectives are listed in Table 2 of the applicant's report. Table 1 below lists the European Sites and identifies their qualifying interests.



European Site (Code)	Qualifying Interests	Distance	Connections	Considered further in Screening
North Inishowen Coast SAC (1002012)	Mudflats and sandflats not covered by seawater at low tide  Perennial vegetation of stony banks  Vegetated sea cliffs of the Atlantic and Baltic coasts  Fixed coastal dunes with herbaceous vegetation (grey dunes)  Machairs (* in Ireland)  European dry heaths  Vertigo angustior (Narrow-mouthed Whorl Snail)  Lutra lutra (Otter)	2.3km	Yes  Hydrological Connections	Yes
Magheradrumman Bog SAC (000168)	Northern Atlantic wet heaths with Erica tetralix  Blanket bogs (* if active bog)	4.8km	No	No

Trawbreaga Bay SPA (004034)	Barnacle Goose (Branta leucopsis) Light-bellied Brent Goose (Branta bernicla hrota) Chough (Pyrrhocorax pyrrhocorax) Wetland and Waterbirds	2.3km	Yes Hydrological Connections	Yes
Malin Head SPA (1004146)	Corncrake	11.4km	No	No
Lough Foyle SPA (004087)	Red-throated Diver (Gavia stellata) Great Crested Grebe (Podiceps cristatus) Bewick's Swan (Cygnus columbianus bewickii) Whooper Swan (Cygnus cygnus) Greylag Goose (Anser anser) Light-bellied Brent Goose (Branta bernicla hrota) Shelduck (Tadorna tadorna)	13.2km	No	No

	<p>Wigeon (<i>Anas penelope</i>)</p> <p>Teal (<i>Anas crecca</i>)</p> <p>Mallard (<i>Anas platyrhynchos</i>)</p> <p>Eider (<i>Somateria mollissima</i>)</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>)</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>)</p> <p>Golden Plover (<i>Pluvialis apricaria</i>)</p> <p>Lapwing (<i>Vanellus vanellus</i>)</p> <p>Knot (<i>Calidris canutus</i>)</p> <p>Dunlin (<i>Calidris alpina</i>)</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>)</p> <p>Curlew (<i>Numenius arquata</i>)</p> <p>Redshank (<i>Tringa totanus</i>)</p>			
--	--	--	--	--

	Black-headed Gull (Chroicocephalus ridibundus)  Common Gull (Larus canus)  Herring Gull (Larus argentatus)  Wetland and Waterbirds			
--	---	--	--	--

### *Conservation Objectives*

The following identifies the Conservation Objectives for the sites identified in Table 1 above from the NPWS website:

#### North Inishowen Coast SAC

- To restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation (grey dunes) and Machairs (\* in Ireland).
- To maintain the favourable conservation condition of:
  - Mudflats and sandflats not covered by seawater at low tide
  - Perennial vegetation of stony banks
  - Vegetated sea cliffs of the Atlantic and Baltic coasts
  - European dry heaths
  - Narrow-mouthed Whorl Snail
  - Otter

#### Magheradrumman Bog SAC

- To restore the favourable conservation condition of Northern Atlantic wet heaths with Erica tetralix and Blanket Bogs in Magheradrumman Bog SAC.

#### Trawbreaga Bay SPA

- To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
- To maintain the favourable conservation condition of the wetland habitat in Trawbrega Bay SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

#### Malin Head SPA

- To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

#### Lough Foyle SPA

- To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
- To maintain the favourable conservation condition of the wetland habitat in Lough Foyle SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

#### *Identification of likely effects*

At the outset I note that the proposed development is not connected with or necessary for the conservation management of any Natura 2000 site. I furthermore note that the site and all works associated with the proposed development are intended to take place outside of the above referenced SACs and SPAs. As a result, there would be no direct loss of habitat within these European sites.

Table 2 of the applicants Screening Statement sets out a description of the potential impact of the proposal on each of the identified Natura 2000 sites.

The applicant assessment outlines that the following sites can be screened out from further assessment:

- Magheradrumman Bog SAC (000168)
- Malin Head SPA (004146)
- Lough Foyle SPA (004087)

These sites are screened out on the basis of the distance from the appeal site to these designated sites and lack of a pathway.

I am satisfied that the potential for impacts on the aforementioned Natura 2000 sites can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development and the nature of intervening development.

The appeal site is hydrologically connected to the North Inishowen Coast SAC (002012) and Trawbreaga Bay SPA (004034). Table 2 of the applicant's Screening Assessment outlines the following in respect of potential impacts on these sites.

- There is a direct hydrological connection between the SPA and SAC and the appeal site via proximity of the works to the Glentogher River and the fact that the Mill race will be diverted to the river. Surface water will also drain to the River. Out of an abundance of caution it is stated that there is potential for significant effects on the qualifying features of the SAC and SPA. Mitigation measures are required to ensure that surface water entering the watercourse is clean and uncontaminated during both the construction and operational phases of the development.
- The applicant's assessment identifies an indirect hydrological connection via the foul water network. In the absence of mitigation, no significant impacts on the qualifying interests of the SAC or SPA are envisaged.
- Noise, vibration and lighting impacts associated with the construction and operations phases of the development on the SAC and SPA are discounted on the basis of the location of the site within an urban environment and distance from the designated sites.
- The applicants report outlines that: In a strict application of the precautionary principle, it has been concluded that significant effects on the North Inishowen Coast SAC and the Trawbreaga Bay SPA are likely in the absence of mitigation measures from the proposed works. This is primarily as a result of direct hydrological connection to these sites from the proposed project, which involves enabling works including millrace and foul water diversions and direct surface water connections (millrace and drainage) to the Glentogher River that leads to the SAC.

The applicant's Screening Statement concludes the following:

The possibility of significant effects caused by the proposed project was excluded for the following Natura 2000 sites:

- Magheradrumman Bog SAC (000168)
- Malin Head SPA (004146)
- Lough Foyle SPA (004087)

The project is limited in scale and extent and the proposed zone of influence is restricted to the immediate vicinity of the proposed development. An NIS is not required because it can be excluded on the basis of the best objective scientific information following screening that the plan or project, individually and in combination with other plans and projects, will have a significant effect on the named European sites.

Potential impacts in the absence of mitigation measures may result in impacts on the North Inishowen Coast SAC and the Trawbreaga Bay SPA. The Screening Conclusions outlines that *“acting on strict precautionary basis, NIS is required in respect of the effects of the project on the North Inishowen Coast SAC and the Trawbreaga Bay SPA (drainage and downstream impacts during construction) because it cannot be excluded on the basis of best scientific information following screening, in the absence of control or mitigation measures that the plan or project, individually and/or in combination with other plans or projects, will have a significant effect on the named European Site/s”*.

#### *Cumulative Impacts*

In terms of in combination effects the applicants AA Screening outlines that there are no projects proposed or currently under construction that could potentially cause in combination effects on Natura 2000 sites. No significant effects are therefore considered likely from in combination effects.

#### *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.

#### *Screening Determination*

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 the following European Sites North Inishowen Coast SAC (002012) and Trawbreaga Bay SPA (004034), in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.

This determination is based on the following:

- The nature and extent of the proposed works associated with the proposed development.
- The known pathways between the site and the European sites.

The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment:

- Magheradrumman Bog SAC (000168)
- Malin Head SPA (004146)
- Lough Foyle SPA (004087)

#### *Appropriate Assessment*

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.

Compliance with Article 6(3) of the EU Habitats Directive. 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 before consent can be given. The proposed development is not directly to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(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 the North Inishowen Coast SAC (002012) and the Trawbreaga Bay SPA (004034). Measures intended to reduce or avoid significant effects have not been considered in the screening process.

*Natura Impact Statement – Appropriate Assessment Stage II Report*

The applicant's Appropriate Assessment Stage II Report 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.

The NIS evaluates the potential for direct, indirect effects along or in combination with other plans and projects having taken into account the use of mitigation measures.

The NIS concludes the following:

*“In strict application of the precautionary principle, it has been concluded that significant effects on the North Inishowen Coast SAC and Trawbreaga Bay SPA are likely from the proposed works in the absence of standard control or mitigation measures, primarily as a result of direct hydrological connection to the site via the Glentogher River, and possible downstream impacts from the project during the instream, landscaping and drainage works. For this reason a NIS was carried out to assess whether the proposed project, either along or in combination with other plans and projects, in view of best scientific knowledge and in view of the sites conservation objectives, will adversely affect the integrity of the European site. All other Natura 2000 sites were screened out at initial screening.*

*We conclude that we have demonstrated on the basis of the best scientific information available which we consider is adequate to make this conclusion that the project alone or in combination with other plans or projects will not have an adverse*

*effect on the integrity of the North Inishowen Coast SAC, and Trawbreaga Bay SPA in view of their conservation objectives. No in combination effects are foreseen. In combination effects have been excluded.*

*No significant impacts are likely on Natura 2000 sites, alone or in combination with other plans or projects based on the implementation of standard construction phase mitigation measures”.*

I note the contents of Donegal County Council’s Screening Determination and planner’s report which informs the decision of Donegal County Council to grant permission for the development. I also note the concerns raised within the appeal on the application in relation to potential construction and operational impacts of the development.

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 the North Inishowen Coast SAC and Trawbreaga Bay SPA alone, or in combination with other plans and projects.

#### *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 the following national and EC guidelines on appropriate assessment.

The following guidance is adhered to in the assessment:

- DoEHLG (2009) Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Articles 6(3) and 6(4) of the Habitats Directive 92/43/EC.
- EC (2018) Managing Natura 2000 sites.

#### *European Sites*

The following sites are subject to appropriate assessment:

- North Inishowen Coast SAC (Site Code: 002012)
- Trawbrega Bay SPA (Site Code: 004034)

A description of these sites and their Conservation and Qualifying Interests / Special Conservation Interests, including any relevant attributes and targets for these sites, are set out in the NIS. Details of these European sites' Conservation and Qualifying Interests / Special Conservation Interests are set out in the Screening undertaken earlier in this report.

The following provides a brief description of these sites. A full description of the sites is set out within the NPWS website and the Natura Impact Statement submitted in support of the development.

*North Inishowen Coast SAC (Site Code: 002012)*

The North Inishowen Coast SAC stretches from Crummies Bay in the west up to Malin Head and back down to Inishowen Head to the east. It encompasses an excellent variety of coastal habitats including high rocky cliffs, offshore islands, sand dunes, saltmarsh, a large intertidal bay, and rocky, shingle and sand beaches. There are excellent raised beaches along the east coast including the oldest and best preserved late-glacial fossil coast in Ireland (between Ineuran Bay and Esky Bay). Indeed it is the only well preserved such coast in Europe and so is of international importance. Also of geomorphological interest is the small area of stone polygons near Malin Tower.

This northern site is of high conservation value because of the extensive area of relatively unspoilt coastal and heath habitats and the range of plant and animal species that these habitats support. Of particular note is the presence of good examples of two E.U. Habitats Directive Annex I priority habitats, fixed dunes and machair. Very good examples of several other Annex I habitats are found, notably sea cliffs, vegetated shingle banks, dry heath and intertidal sand and mudflats. There are two legally protected plant species and a range of scarce species. The diversity of bird species is of particular note, with wintering waterfowl, breeding seabirds and breeding waders. Important populations of three E.U. Birds Directive Annex I species occur - Barnacle Goose, Peregrine and Chough.

*Trawbreaga Bay SPA (Site Code: 004034)*

Trawbreaga Bay is a well-sheltered sea bay situated on the north-western coast of the Inishowen Peninsula, Co. Donegal. Doagh Isle, a low-lying, sandy promontory, stretches across the mouth of the bay, leaving only a narrow strait to the open sea. The bay is fed by a number of small rivers and streams, chiefly the Ballyboe, Donagh and Glennagannon rivers. The site includes Glashedy Island which lies approximately 1 km offshore. The village of Malin is situated on the eastern shore of the bay.

This site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Barnacle Goose, Light-bellied Brent Goose and Chough. The E.U. Birds Directive pays particular attention to wetlands, and as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.

*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 including the following:

- Construction impacts – potential construction relating impacts are identified during site clearance, enabling works including millrace diversion, re-profiling and building phases of the development on the basis of silt laden and contaminated run off to the Glentogher River and pollution of a watercourse which is hydrologically connected to the SAC and SPA.
- Operational Impacts – include impact of surface water run-off from the site.

*Assessment of Effects on Conservation Objectives - North Inishowen Coast SAC (Site Code: 002012)*

Table 6 of the applicants NIS provides an overview of the potential for adverse effects on the qualifying interest and conservation objectives of Natura 2000 sites.

The assessment outlines that having regard to the characteristics of the development the proposal would not be expected to effect the following qualifying interests of the SAC:

- Perennial vegetation of stony banks

- Vegetated sea cliffs of the Atlantic and Baltic coasts
- Fixed coastal dunes with herbaceous vegetation (grey dunes)
- Machairs (\* in Ireland)
- European dry heaths
- *Vertigo angustior* (Narrow-mouthed Whorl Snail)

Having regard to the characteristics of the proposal and the above qualifying interests, I am satisfied that potential effects can be excluded.

Table 6 outlines that in the absence of significant impacts cannot be ruled out for the following qualifying interests of the SAC in the absence of mitigation measures given the presence of *zostera* beds and otter which may use the watercourse within its range:

- Mudflats and sandflats not covered by seawater at low tide
- *Lutra lutra* (Otter)

Table 6 outlines that the mitigation measures outlined will be carried out to ensure that no silt or pollution enters the watercourse from the construction or operational phases of the proposed project and create localised pollution.

In terms of *Lutra lutra*, I note that the presence of this species is positively correlated with good water quality and deterioration of same will lead to impacts upon this species. A reduction in water quality could impact on the diet of this species and lead to other stressors.

Otter movements within the area are likely to be incidental and any disturbance is unlikely to have a significant effect on the population. I would also note that any Otter within the area are likely to be accustomed to some disturbance associated with human activity and habitation, given the location of the site within the environs of Cavan town. I consider the risk of disturbance to Otter during the construction phase is low.

The proposed development does not result in habitat loss within the European site. Detailed mitigation measures are set out in the NIS to prevent the deterioration of water quality by way of run off, including arrangements for site works, protection of

water quality to be incorporated into a Construction and Environment Management Plan.

Having regard to the foregoing I am satisfied that no adverse effects on the above qualifying interests will arise as a consequence of the development.

Assessment of Effects on Conservation Objectives – Trawbreaga Bay SPA (Site Code: 004034)

Table 6 of the NIS outlines that the proposed development would not be expected to effect the following qualifying interests of the SPA:

- Barnacle Goose (*Branta leucopsis*)
- Chough (*Pyrhocorax pyrrhocorax*)

Having regard to the characteristics of the proposal and the above qualifying interests, I am satisfied that potential effects can be excluded.

On the basis of potential impacts on *Zostera* distribution cant be ruled out in the absence of mitigation, and in this regard the proposal has the potential to impact on the use of the area by the following qualifying interests of the SPA:

- Light-bellied Brent Goose (*Branta bernicla hrota*)
- Wetland and Waterbirds

The proposed development does not result in habitat loss within the European site. Detailed mitigation measures are set out in the NIS to prevent the deterioration of water quality by way of run off, including arrangements for site works, protection of water quality set out within the Preliminary Construction and Environmental Management Plan and to be incorporated into a Construction and Environment Management Plan.

Having regard to the foregoing I am satisfied that no adverse effects the above qualifying interests of the SPA will arise as a consequence of the development.

*Mitigation*

The applicant's NIS details the range of mitigation measures intended to be employed as part of the proposed development. The measures include appointment of a project ecologist, consultation within Inland Fisheries Ireland, adherence to the

provisions set out in the CEMP, mitigation by design, construction methodologies, clear-span watercourse crossings, drainage management, culvert upgrading, handling of hydrocarbons and waste material, control measures for cement and monitoring.

### *Integrity Test*

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 view of the North Inishowen Coast SAC (002012) and the Trawbreaga Bay SPA (004034). This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

### *Appropriate Assessment Conclusion*

The proposed development has been considered in light of the assessment requirements of Section 177 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 the North Inishowen Coast SAC (002012) and the Trawbreaga Bay SPA (004034). 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.

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. 002012 and 004034 or any other European site, in view of the site's Conservation Objectives.

This conclusion is based on a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of the North Inishowen Coast SAC (002012) and the Trawbreaga Bay SPA (004034), detailed assessment of in combination effects with other plans and projects and no reasonable scientific doubt as to the absence of adverse effects on the integrity of both the North Inishowen Coast SAC (002012) and the Trawbreaga Bay SPA (004034).

## 8.0 Recommendation

8.1. I recommend that permission is granted for the proposed development in accordance with the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Donegal County Development Plan 2018-2024, the Seven Strategic Towns Local Area Plan 2018-2024 and to the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April, 2012 and to the location, scale and design of the proposed development and the pattern of development in the area it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 1st day of April 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.  Reason: In the interest of clarity.
2.	Details (including samples) of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and



	<p>agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual amenity.</p>
3.	<p>Prior to the commencement of development, the developer shall submit the following details for written agreement of the planning authority:</p> <ul style="list-style-type: none"> <li>• A revised site layout plan which includes details of the tie in of the proposed access road from the L12712 with the adjoining lands in the ownership of the applicant to the north.</li> <li>• A revised site layout plan which addresses the issues raised within the Stage 1 Road Safety Audit submitted in support of the application.</li> </ul> <p>Reason: In the interest of traffic safety.</p>
4.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the requirements of Donegal County Council and in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).</p> <p>Reason: In the interests of pedestrian and traffic safety.</p>
5.	<p>The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To ensure a satisfactory completion and maintenance of the development in the interests of residential amenity.</p>
6.	<p>A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date.</p> <p>Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance</p>

	<p>with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
7.	<p>No additional signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.</p> <p>Reason: In order to protect the visual amenities of the area.</p>
8.	<p>The proposed unit shall not be open to the public outside the hours 0800 to 2200. Deliveries shall not take place before the hour of 0700 Monday to Saturday inclusive, nor before the hour of 0800 on Sundays and public holidays, nor after 2200hrs on any day.</p> <p>Reason: In the interests of amenity.</p>
9.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless agreed in writing with the planning authority.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
10.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.</p> <p>Reason: In the interests of amenity and public safety.</p>
11.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p>

	Reason: In the interests of visual amenity.
12.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement and Outline Construction Environmental Management Plan submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>
13.	<p>Water supply and drainage arrangements, including the disposal of surface water from the site, shall be in accordance with the detailed requirements of the planning authority.</p> <p>Reason: In the interests of public health.</p>
14.	<p>The applicant shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development. Details of the proposal to divert the existing Mill Race and wastewater services on site shall be submitted to Uisce Éireann for written agreement prior to the commencement of development on site.</p> <p>Reason: In the interest of public health.</p>
15.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. A</p>

	<p>report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
16.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
17.	<p>The construction of development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall provide a demolition management plan, together with details of intended construction practice for the development, including a detailed traffic management plan, hours of working, and noise management measures.</p> <p>Reason: In the interests of public safety and residential amenity.</p>

18.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
19.	<p>Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
20.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
--	--

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Stephanie Farrington  
Senior Planning Inspector

28<sup>th</sup> of July 2023