



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314670-22

#### Development

AN DÍON ARDAITHE DÁR DTEACH  
CÓNAITHE A CHOINNEÁILT AGUS  
IONAD CÓIREÁLA FUÍOLLUISE LE  
LÁTHAIR SHÍOTHLÚCHÁIN A CHUR  
ISTEACH

#### Location

MBUN AN INBHIR ÍOCHTARACH,  
DOIRÍ BEAGA, CO. DHUN NA  
NGALL

#### Planning Authority

Donegal County Council

#### Planning Authority Reg. Ref.

2251151

#### Applicant(s)

Patrick and Cabrini O'Loughlin.

#### Type of Application

Permission.

#### Planning Authority Decision

Grant permission.

#### Type of Appeal

Third Party

#### Appellant(s)

An Taisce.

#### Observer(s)

None.

#### Date of Site Inspection

21<sup>st</sup> March 2023.

**Inspector**

Barry O'Donnell

## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 0.084ha and is located in the townland of Bunaninver, north-west of Gweedore in north-west County Donegal. It consists of a rectangular plot that contains a detached house and its curtilage garden. The house appears to have been recently renovated.
- 1.2. The site is enclosed along its east and west side by a concrete wall and the rear (south) is partly enclosed by a low-level wall. There is an open drain adjacent to the east site boundary that drains into Bunaninver Harbour, to the south.
- 1.3. The site is accessed from a single lane cul-de-sac that connects to the L-5313 and which provides access to a number of other rural houses. There are signs of pressure for housing in the wider area, including evidence of ribbon development.

## **2.0 Proposed Development**

- 2.1. The proposed development entailed within the public notices comprises retention of raised roof ridge height and proposed installation of a new wastewater treatment system.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority granted permission on 25<sup>th</sup> August 2022, subject to 5 No. conditions.

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

- 3.2.1. A Planning Report dated 23<sup>rd</sup> August 2022 has been provided, which reflects the decision to grant permission. The report did not express any concern regarding the development and recommended that permission be granted subject to 5 No. conditions, which are consistent with those attached to the Planning Authority's decision.
- 3.2.2. Other Technical Reports

A **Roads Department** report dated 18<sup>th</sup> July 2022 has been provided, which does not express any concerns.

### 3.3. **Prescribed Bodies**

- 3.3.1. An Taisce made a submission on 9<sup>th</sup> August 2022, advising of the need to undertake screening for Appropriate Assessment and to assess the development against the requirements of Article 4 of the EU Water Framework Directive.
- 3.3.2. The Planning Report indicates that Irish Water and the Department of Housing, Local Government and Heritage were consulted on the application but did not make a submission.

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

- 3.4.1. 1 No. third party submission was received, the issues raised within which can be summarised as follows: -
- Unauthorised development,
  - Impact on adjacent SAC,
  - Privacy,
  - Visual impact.

## 4.0 **Planning History**

**042605:** (ABP Ref. PL05B.208347) The Board refused permission on 13<sup>th</sup> December 2004 for retention of an existing extension and a proposed extension. Permission was refused for 2 No. reasons as follows: -

1. Having regard to the extremely limited area of the site available for the disposal of effluent, the proximity of the septic tank to the site boundary and to an adjoining watercourse, the Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal, that the existing septic tank is capable of adequately treating effluent generated by the proposed development and would give rise to a risk of pollution of adjoining land. It is

considered, therefore, that the proposed development would be prejudicial to public health.

2. Having regard to its design and scale, it is considered that the proposed development would be out of character with the existing cottage and other cottages nearby and would be visually obtrusive in this highly scenic, Category 3 landscape and would, therefore, be contrary to the proper planning and sustainable development of the area.

**052664:** Permission was granted on 22<sup>nd</sup> July 2005 for retention of the existing house and septic tank.

## 5.0 Policy Context

### 5.1. Donegal County Development Plan 2018-2024

- 5.1.1. The site is in a rural, unzoned part of County Donegal. Map 6.2.1 'Rural Area Types' identifies that the site is in a 'structurally weak area'. Relevant policies include: -

**UB-P-12:** It is the policy of the Council both to protect the residential amenity of existing residential units and to promote design concepts for new housing that ensures the establishment of reasonable levels of residential amenity.

**UB-P-27:** Proposals for extension to a dwelling shall be considered subject to the following criteria: (a) The development reflects and respects the scale and character of the dwelling to be extended and its wider settlement; (b) Provision is made for an adequate and safe vehicular access and parking; and (c) The proposal would not adversely affect the amenity of adjoining properties.

- 5.1.2. According to Map 7.1.1 'Scenic Amenity' the site is located in an area of 'High Scenic Amenity'. Section 7.1.1 of the development plan discusses landscape designations. For areas of High Scenic Amenity, it states that these areas '*are landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.*'

5.1.3. Policy NH-P-7 is relevant to the development. It states: -

**NH-P-7:** Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the other objectives and policies of this Plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.

## 5.2. Natural Heritage Designations

5.2.1. The site is not located within or adjacent to any designated European site, the closest such site being Gweedore Bay and Islands SAC (Side Code 001141), which lies c.30m south.

5.2.2. Gweedore Bay and Islands (Site Code 001141) is also designated as a proposed Natural Heritage Area and its designated area is identical to that of the SAC in the area of the site.

## 5.3. EIA Screening

5.3.1. The proposed development is not a class of development for which EIA is required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of appeal can be summarised as follows: -

- Screening for Appropriate Assessment should have been carried out.
  - The site is in close proximity Gweedore Bay and Islands SAC and appears to be hydrologically connected to it via a drain in the southeast portion of the site.
  - The proximity of effluent treatment system to the house as well as rock formations and poor soil coverage affect the capacity of the site to treat wastewater and have not been addressed by the Planning Authority's report.

- In the event that Appropriate Assessment is required, the application would not be determinable.
- Potential issues for public amenity also arise given the close proximity of the site to the shoreline and path leading to the beach.
- Insufficient information has been provided on the planning history of the site.

## 6.2. Applicant Response

6.2.1. The applicant responded to the appeal on 24<sup>th</sup> October 2022, in a submission prepared by O'Connor Burke Architecture which included an Appropriate Assessment Screening Report prepared by Greentrack Environmental Consultants. The response to the appeal can be summarised as follows: -

- Screening for appropriate assessment was undertaken by the Planning Authority, which determined that Stage 2 appropriate assessment is not required.
  - The Screening Report for Appropriate Assessment submitted with the appeal response similarly determines that there is no requirement for Stage 2 appropriate assessment.
- Permission was granted under Reg. Ref. 052664 for retention of the existing septic tank. The applicants propose to upgrade the system to a more modern and environmentally sustainable system. Recommendations of the Site Suitability Assessment report have been incorporated in full.
- The full planning history of the site is available on the Planning Authority's website.
- There is no path to the coastline, other than along the public road.
- The coastline in the area of the site does not form part of Donegal's designated bathing waters under the Bathing Waters Directive. The nearest such waters are at Portarthur, to the south.

## 6.3. Planning Authority Response

6.3.1. The Planning Authority made a submission on the appeal on 6<sup>th</sup> October 2022, which included an Appropriate Assessment Screening exercise.

## 6.4. Observations

6.4.1. None.

## 6.5. Further Responses

### Planning Authority

6.5.1. The Planning Authority made a further submission on 15<sup>th</sup> November 2022, advising that that the authority had no further comment on the appeal.

### An Taisce

6.5.2. An Taisce made further submissions on 15<sup>th</sup> November 2022 and 21<sup>st</sup> November 2022.

6.5.3. The submission dated 15<sup>th</sup> November 2022 submitted that the Appropriate Assessment Screening Report and subsequent assessment by the Planning Authority do not properly address the location sensitivity of the site. The submission further argues that the requirements of the EPA Code of Practice cannot be complied with on the site.

6.5.4. The submission dated 21<sup>st</sup> November 2022 responds to the Appropriate Assessment Screening, submitting that the applicant did not consider the previous refusal on the site, Reg. Ref. PL05B.208347. The submission also argues that the applicant did not address potential impacts on Bunaninver Beach and that there is inadequate space on the site to provide a percolation area of adequate size.

## 7.0 Assessment

7.1. Having inspected the site and considered the contents of the third-party appeal in detail, the main planning issues in the assessment of the proposed development are as follows:

- Principle of development;
- Wastewater treatment; and
- Appropriate Assessment.

## 7.2. Principle of Development



- 7.2.1. The applicant has applied for permission for retention of a raised roof ridge height (ridge raised to 5.3m) and the installation of a new wastewater treatment system.
- 7.2.2. The appellant questions the planning history of the site and the level of information provided with the application.
- 7.2.3. The principle of a residential use is established on the site and I see no reason to object to a proposed extension comprising of a raised ridge height. I do not consider the raising of the ridge height of the house has any unacceptable impact on the visual amenities of the area or the residential amenity of adjacent occupiers.
- 7.2.4. However, and notwithstanding this, it was evident on my site visit that the house has undergone recent renovation, which appeared to include additional works to the aforementioned raising of the ridge. The extent of renovation works is unclear and was not addressed by either the applicant or Planning Authority in its assessment of the application.
- 7.2.5. The Board previously refused permission for development at the site, under Ref. PL05B.208347. To assist the assessment of the current appeal, I have compared the application drawings provided with PL05B.208347, which are available on the Planning Authority's website, to those submitted with the current application and it is apparent that the current house has a larger gross floor area to that depicted in the drawings for the previously refused development. The floor plan drawing provided with PL05B.208347 identifies that the house was a single storey house with a gross floor area of 50sqm at that time, whereas the current house is a 2-storey house with a stated gross floor area of c.118sqm. The appearance of the house also appears to have been altered, for example through the removal of parapet wall projections at both ends of the roof, the removal of a chimney breast and the incorporation of new and larger window openings on the side and rear elevations.
- 7.2.6. The application seeks to retain works to the house but this does not include extensions and/or alterations of the nature outlined above, which may themselves require planning permission and which appear to me to be functionally connected to the raised ridge height.
- 7.2.7. As is outlined in the following sections, I have other substantive concerns regarding the proposed development, however; should the Board be minded to grant

permission they may wish to clarify the extent and planning status of the additional development works that have been undertaken.

### **7.3. Wastewater Treatment**

- 7.3.1. The appellant expresses concern regarding the capacity of the to treat wastewater and also regarding the site's proximity to Gweedore Bay and Islands SAC.
- 7.3.2. The development includes the proposed installation of a combined secondary and tertiary wastewater treatment system, to replace an existing septic tank system on the site. The Site Suitability Assessment Report submitted with the application identifies that the category of aquifer as 'poor', with a vulnerability classification of 'Extreme'. Table E1 (Response Matrix for DWWTs) of the EPA Code of Practice Domestic Wastewater Treatment Systems identifies an 'R2<sup>1</sup>' response category i.e., acceptable subject to normal good practice. The Code of Practice also states under the response category that where domestic water supplies are located nearby, particular attention should be given to the depth of subsoil over bedrock such that the required minimum depths are met and the likelihood of microbial pollution is minimised.
- 7.3.3. A trial hole with a depth of 2m encountered 300mm of gravelly sand silt/clay and 1700mm of gravelly sandy silt. The water table and bedrock are stated to have not been encountered in the trial hole. In relation to the percolation characteristics of the soil, a surface percolation value (P-test) of 17.22 min/25mm was returned. The Report states that a sub-surface percolation test (T-test) was not undertaken as it would be likely to disturb the percolation system serving the existing septic tank. The Report concludes that the site is suitable for the installation of a secondary or tertiary treatment system and, in this context, proposes a tertiary treatment system and 20sqm pea gravel infiltration area.
- 7.3.4. The proposed wastewater treatment system does not meet a number of requirements of the EPA Code of Practice. It is located within c.3m of the rear of the house, it abuts the site boundary and is located within c.8m of an open drain. Table 6.2 of the Code of Practice states that an on-site treatment plant or tank should be 7m from a dwelling house, an infiltration area should be 10m from a dwelling house and all parts of the system should be a minimum 3m from a site boundary and 10m from an open drain. The Site Suitability Assessment Report acknowledges the

restricted nature of the site and argues that the proposed system would provide a significant improvement from the existing septic tank system and will help protect human health and the environment.

- 7.3.5. I acknowledge, as the applicant states, that Section 1.3 of the Code of Practice allows for consideration to be given to a non-conforming proposed system, in the event that it represents an upgrade of an existing non-conforming system and will protect human health and the environment. However, I do not consider there are circumstances in this instance that weigh in favour of the proposed development.
- 7.3.6. The applicant has not undertaken a sub-surface percolation test (T-test), to demonstrate that the subsoil is capable of percolating treated wastewater from the site. In the context of the failure to achieve the minimum required 10m separation distance from the open drain, in the event that the subsoil is incapable of percolating treated wastewater, this increases the risk of pollutants being discharged from the site to the open drain and onward into the adjacent SAC.
- 7.3.7. I note the applicant's submission that to undertake a sub-surface percolation test may have interfered with the existing percolation area, but there appears to me to be adequate space to the rear of the house to undertake this test without disturbing the existing percolation. The Board will note in this regard that the existing percolation area is not identified by the application drawings.
- 7.3.8. The proposed system is also heavily engineered and requires ongoing maintenance. If the system is not adequately maintained, inefficient treatment of wastewater on the site may arise and, in particular gives rise to potential impacts for the adjacent SAC.
- 7.3.9. Thus, to conclude my assessment, the site is constrained and is adjacent to a sensitive receptor that is vulnerable to pollution associated with the treatment of waste. The proposed on-site treatment system does not meet a number of requirements of the EPA Code of Practice and I do not consider there are circumstances in this instance that weigh in favour of a grant of permission for a non-conforming system. I thus recommend that permission be refused on this basis.

#### 7.4. **Appropriate Assessment**

##### Appropriate Assessment Screening

##### *Compliance with Article 6(3) of the Habitats Directive*

- 7.4.1. The requirements of Article 6(3) 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.

*Background on the Application*

- 7.4.2. A Screening Report for Appropriate Assessment was submitted with applicant's appeal response submission, prepared by Greentrack Environmental Consultants. It provides a description of the proposed development, identifies European sites within a possible zone of influence and identifies potential impacts in relation to Gweedore Bay and Islands SAC.

- 7.4.3. Having reviewed the appeal documents provided and submissions, I am satisfied that there is adequate information in relation to the European sites to allow 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.

*Need for Stage 1 Appropriate Assessment Screening*

- 7.4.4. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken on any plan or project not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives.

- 7.4.5. The proposed development is not directly connected with or necessary to the management of a European site and accordingly is subject to the provisions of Article 6(3).

*Brief description of the development*

- 7.4.6. The applicant provides a description of the proposed development at Section 3 of the Screening Report. The development is also described at Section 2 of this Report. In summary, permission is sought for retention of raised roof ridge height and proposed installation of a new wastewater treatment system. The site lies adjacent to Gweedore Bay and Islands SAC (Side Code 001141), which lies c.30m south.

- 7.4.7. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, I consider the following potential impact mechanisms require examination: -

- Potential impacts on water quality within a European site arising from surface water discharges during construction and operational phases and operation of the on-site WWTP.

Submissions and Observations

7.4.8. The submissions from the appellant, applicant and Planning Authority are summarised as Section 6 of my Report.

European Sites

7.4.9. The site is not located within or adjacent to any designated European site, the closest such site being Gweedore Bay and Islands SAC (Side Code 001141), which lies c.30m south.

7.4.10. There are a number of other European sites within a 15km search zone, as identified by Section 5.1 of the Screening Report but, in view of the smallscale nature of the project, I am satisfied that there is no real likelihood of significant effects arising, other than for the aforementioned site which lies in close proximity to the subject site.

7.4.11. A summary of Gweedore Bay and Islands SAC is outlined in the table below: -

<b>European Site (code)</b>	<b>List of Qualifying interests /Special Conservation Interests</b>
<u>SAC</u>	
Gweedore Bay and Islands SAC (Side Code 001141)	<ul style="list-style-type: none"> <li>• Coastal lagoons</li> <li>• Reefs</li> <li>• Perennial vegetation of stony banks</li> <li>• Atlantic salt meadows</li> <li>• Mediterranean salt meadows</li> <li>• Embryonic shifting dunes</li> <li>• Shifting dunes along the shoreline with <i>Ammophila arenaria</i></li> <li>• Fixed coastal dunes with herbaceous vegetation</li> <li>• Decalcified fixed dunes with <i>Empetrum nigrum</i></li> <li>• Atlantic decalcified fixed dunes</li> <li>• Dunes with <i>Salix repens</i> ssp. <i>argentea</i></li> <li>• Humid dune slacks</li> <li>• Machairs</li> <li>• Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i></li> <li>• European dry heaths</li> <li>• Alpine and Boreal heaths</li> </ul>

	<ul style="list-style-type: none"> <li>• Juniperus communis formations on heaths or calcareous grasslands</li> <li>• Marsh Fritillary</li> <li>• Otter</li> <li>• Petalwort</li> <li>• Slender Naiad</li> </ul>
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7.4.12. In respect of Screening, the Report concludes as follows: -

*‘Following the assessment as detailed in this AA Screening Report and screening determination in Section 6, it is concluded based on the examination, analysis and evaluation of relevant information that the possibility that the proposed development will have a significant effect on Natura 2000 sites may be excluded.*

*Therefore Stage 2 Appropriate Assessment is not required. This conclusion was reached based on objective information and in view of best scientific knowledge.’*

Evaluation of effects

7.4.13. For the construction phase, the Screening Report states that minimal clearance works will be required for the replacement of the existing septic tank system and that the replacement system will have a positive effect. It also expresses the view that the open drain is heavily vegetated, which provides for natural filtration and attenuation of potential contaminants within runoff during construction. The Screening Report states that no significant effects are predicted to arise during the operational phase.

7.4.14. Notwithstanding the comments of the Screening Report, I consider the proposed development has the potential to result in the deterioration of water quality downstream of the site, resulting in pollution from surface water run-off during the construction phase and during the operation of the development, via diffuse pollution from the WWTS.

7.4.15. In particular I would note that the site is hydrologically connected to Gweedore Bay and Islands SAC, via the open drain that routes adjacent to the east boundary and which discharges directly into the SAC. Construction activity associated with decommissioning the existing septic tank system and installation of the newly proposed system will take place in close proximity to the drain and gives rise to the possibility of runoff containing suspended solid and/or pollutant content entering the

drain. For the operational phase, it is also proposed to pipe all surface water from the site to this open drain.

7.4.16. The proposed WWTS also encroaches to within c.8m of the open drain, failing to accord with the requirements of the EPA Code of Practice, which requires that the periphery of the system should be a minimum of 10m from an open drain.

7.4.17. As such, the proposed development may have significant effects on Gweedore Bay and Islands SAC and, therefore, the carrying out of an Appropriate Assessment of the proposed development is necessary.

#### Screening Determination

7.4.18. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in combination, will have a significant effect on the following European site: -

- Gweedore Bay and Islands SAC (Side Code 001141).

#### Appropriate Assessment

7.4.19. The conservation objectives for Gweedore Bay and Islands SAC are: (1) To restore the favourable conservation condition of Coastal lagoons, (2) To maintain the favourable conservation condition of Reefs, (3) To maintain the favourable conservation condition of Perennial vegetation of stony banks, (4) To maintain the favourable conservation condition of Mediterranean salt meadows (*Juncetalia maritimi*), (5) To maintain the favourable conservation condition of Embryonic shifting dunes, (6) To maintain the favourable conservation condition of Shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes'), (7) To restore the favourable conservation condition of Fixed coastal dunes with herbaceous vegetation ('grey dunes'), (8) To maintain the favourable conservation condition of Decalcified fixed dunes with *Empetrum nigrum*, (9) To maintain the favourable conservation condition of Atlantic decalcified fixed dunes (*Calluno-Ulicetea*), (10) To maintain the favourable conservation condition of Dunes with *Salix repens* ssp. *argentea* (*Salicion arenariae*), (11) To maintain the favourable conservation condition of Humid dune

slacks, (12) To restore the favourable conservation condition of Machairs, (13) To maintain the favourable conservation condition of Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*), (14) To maintain the favourable conservation condition of European dry heaths, (15) To maintain the favourable conservation condition of Alpine and Boreal heaths, (16) To restore the favourable conservation condition of *Juniperus communis* formations on heaths or calcareous grasslands, (17) To maintain the favourable conservation condition of Otter, (18) To maintain the favourable conservation condition of Petalwort and (19) To maintain the favourable conservation condition of Slender Naiad.

- 7.4.20. The subject site is set back approx. 30m from the SAC boundary and appears to be in closest proximity to the reefs habitat type within the SAC.
- 7.4.21. The proposed development does not occur directly within the SAC or SPA, and as such, **direct impacts** on habitats will not arise.
- 7.4.22. Regarding **indirect impacts**, the proposed development has the potential to result in the deterioration of water quality within the SAC, on foot of surface water discharges containing suspended solids or pollutants during the construction and operational phases.
- 7.4.23. The drain that routes parallel to the east site boundary is open and proposed construction work will take place in close proximity to it. For the operational phase, all surface water drainage from the site is also identified as discharging to this drain, but details of the nature and design of this system have not been provided as part of the application. In the absence of details regarding construction methods and details of the proposed design and specification of the proposed surface water drainage system, I am unable to ascertain whether the development would adversely affect water quality within the SAC.
- 7.4.24. Foul water is proposed to be treated within a combined secondary and tertiary wastewater treatment system and has been justified by the applicant by the inclusion of a Site Suitability Assessment Report, which concludes that the site is suitable for the installation of a secondary or tertiary treatment system.
- 7.4.25. Notwithstanding the conclusion of the Site Suitability Assessment Report, I am not satisfied that the applicant has demonstrated that the subsoil is capable of



percolating treated wastewater from the site, with reference to the failure to undertake a sub-surface percolation test (T-test). In the context of the failure to achieve the minimum required 10m separation distance from the open drain, if the subsoil is incapable of percolating treated wastewater, this increases the risk of pollutants being discharged from the site to the open drain and onward into the adjacent SAC.

- 7.4.26. I further consider the proposed development is reliant on a heavily engineered wastewater treatment system. In the absence of ongoing and suitable maintenance, and with particular reference to the close proximity of the SAC to the site, the proposed development is likely to result in discharges with nutrient content that impact on water quality within the SAC, by way of the hydrological connections which exist between the sites.

#### In-combination effects

- 7.4.27. There are a large number of one-off houses in the vicinity of the subject site, including six additional houses on the cul-de-sac that accesses the site. The Screening Report identifies a number of recent planning applications/permissions for residential development in the vicinity of the site but discounts the possibility of significant in-combination effects arising.
- 7.4.28. Each house is likely to be provided with an on-site wastewater treatment plant and the accumulation of WWTPs in the area may affect water quality within the SAC. The issue is not addressed within the Screening Report and in the absence of evidential data, for example water sampling results, I am unable to ascertain the in-combination effects of the accumulation of WWTPs on water quality within the SAC.

#### Appropriate Assessment Conclusion

- 7.4.29. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended.
- 7.4.30. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Gweedore Bay and Islands SAC (Side Code 001141). Consequently, an Appropriate Assessment was required of the

implications of the project on the qualifying features of this sites, in light of its conservation objectives.

7.4.31. Following an Appropriate Assessment, it has not been ascertained beyond a reasonable doubt that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European site No. 001141, in view of the site's Conservation Objectives. This conclusion is based on:

- The close proximity of the site to the SAC and the presence of hydrological pathways (surface/groundwater flows) that provide routes for run-off and discharge containing suspended solids or pollutants to the European site.
- The absence of sufficient details regarding proposed construction methods and the detailed design of the proposed surface water drainage system to serve the proposed development.
- The reliance of the proposed development on a heavily engineered wastewater treatment system, which, in the absence of ongoing and suitable maintenance, is likely to result in discharges with nutrient content that will impact on water quality within the European site.

7.4.32. In these circumstances, adverse effects on integrity of the European sites cannot be excluded.

## 8.0 Recommendation

8.1. I recommend that planning permission is refused for following reasons and considerations set out hereunder.

## 9.0 Reasons and Considerations

1. Notwithstanding the proposal to use a proprietary wastewater treatment system, having regard to the information provided as part of the application and appeal, the Board is not satisfied that effluent from the development can be satisfactorily treated and disposed of on site and would not give rise to a risk of groundwater pollution. Further, the proposed domestic wastewater treatment system does not accord with the minimum requirements of the Environmental Protection Agency *Code of Practice Domestic Waste Water Treatment Systems (Population*

*Equivalent ≤10*) (2021), Table 6.2 of which outlines minimum separation distances from specified features such as housing, site boundaries and open drains. The proposed development would therefore be contrary to the proper planning and sustainable development of the area and would also be prejudicial to public health.

2. On the basis of the information provided with the application and appeal, and in light of the Stage 2 Appropriate Assessment undertaken, the Board cannot be satisfied that the development, individually, or in combination with other plans or projects, would not be likely to have a significant effect on Gweedore Bay and Islands SAC (Site Code 001141), in view of the site's conservation objectives, by reason of (a) the requirement to undertake excavation works up to an open drain adjacent to the east site boundary that provides a direct hydrological connection to the SAC and to connect the proposed surface water drainage system to this open drain and (b) the requirement for ongoing maintenance of a heavily engineered wastewater treatment system. In such circumstances, the Board is precluded from granting permission.

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Barry O'Donnell  
Planning Inspector

29<sup>th</sup> March 2023.