



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316015-23

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<b>Development</b>	4 apartments and associated site works.
<b>Location</b>	Ardmore, Muff, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2251897
<b>Applicant(s)</b>	Ultan Doherty.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Bill Ward. Gerard and Caroline Harkin Johanna Kelly
<b>Observer(s)</b>	Martin McCormick.
<b>Date of Site Inspection</b>	25 <sup>th</sup> of July 2023
<b>Inspector</b>	Stephanie Farrington

## 1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.148 ha, is located in the townland of Ardmore, Muff, Co. Donegal. The site is located at the northern side of the junction of Iskaheen Park with Iskaheen Road and is currently greenfield and overgrown. Iskaheen Park is an existing residential cul de sac and the site is adjoined by no. 2 Iskaheen Park to the east. Existing site levels vary from 24.5OD to the southwest to 21OD to the northwest. An existing River adjoins northwestern site boundary. A primary school is located at the opposite side of Iskaheen Road.

## 2.0 Proposed Development

- 2.1. The proposed development, as amended in response to Donegal County Council's request for further information, comprises the construction of 4 no. apartments in 2 no. blocks with associated site works and connection to all public services.
- 2.2. The table below provides an overview of the key site statistics:

<b>Table 1: Initial Proposal, Key Figures</b>	
Site Area	0.148 ha
Height	8.135 m
Residential Units	4 apartment units 4 no. apartments at first and second floor – 2 bed 4 person apartments – Floor Area 76.1 sq.m.
Car Parking	2 in curtilage per apartment
Cycle Parking	1 per apartment

## 3.0 Planning Authority Decision

### 3.1. Decision

Donegal County Council issued a notification of decision to grant permission for the development subject to 15 no. conditions. The following conditions are of note:

- Condition no. 2: The apartments shall be used as permanent residential units only.
- Condition no. 12 b. The stairwell rear elevation window and the stairwell side elevation window of the easternmost block of apartments shall be glazed with frosted glass and shall be top-pivot hung.
- Condition no. 13 c. Site preparation and construction shall adhere to best practice and shall conform to the Inland Fisheries Ireland Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River sites.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

##### Initial Planner's Report (13/01/23)

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

- The proposed blocks would strongly resemble houses in the locality in terms of scale and mass and thus visually would be compatible with the established pattern of spatial development in the area.
- The report outlines that Departmental Guidelines encourage a mix of housing types and there is no objection to the development of 4 apartments within the area.
- The report recommends a request for further information in respect of the following:
  - A revised site plan illustrating a 7m carriageway from the existing bridge along the public road, a 2m footpath along the roadside boundary,

adequate turning/circulation space for cars, provision of car parking, a landscaping plan, appropriate bin storage and the provision of a minimum of 4 bicycle stands.

- A revised elevation drawing illustrating revisions to the proposed finishes/materials.

#### Further Information – Planner’s Report (23/02/23)

- The report provides a summary and assessment of the applicant’s FI response. The report outlines that the applicant’s revised proposals comply with the requirements of the planning authority.
- The planner’s report refers to the revised drawings which include a different footprint for the proposed apartment block.
- In terms of overlooking, the report outlines that the side of the balcony of the eastern block would be 9m from the adjoining third party boundary and would only overlook the front open space of that dwelling.
- The report recommends a grant of permission subject to conditions.

#### 3.2.2. Other Technical Reports

##### Appropriate Assessment Screening (13/01/23)

- DCC’s Screening Report outlines that the appeal site is located 1km northwest from the Lough Foyle Special Protection Area (site code 004087) and is linked to the SPA via the river that passes along the northwestern site boundary.
- The AA Screening concludes that “*it can be excluded on the basis of objective scientific information that the subject development when considered individually or in combination with other plans/projects has had or will have a significant effect on a European Site – Lough Foyle SPA (site code: 004087)*”.

##### Building Control (07/12/22)

- No objection subject to conditions.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

6 no. third party submissions were lodged in respect of the proposal from residents within the area. The points raised within the submissions primarily reflect those raised within the grounds of appeal.

## 4.0 Planning History

The appeal site and surrounding area has a detailed planning history. The following provides a summary of relevant applications.

#### PA Ref: 00/5213

Permission refused in December 2000 for the construction of 2 no. residential units on site. The reasons for refusal stated that the density and design of the development would be out of character with the existing pattern of development in the area which is characterised by large-detached dwellings set in their own substantial sites and the undesirable precedent which would be set by the development.

#### PA Ref: 01/4081

Planning permission refused in March 2001 for 2 no. dwellings on site. The reasons for refusal reflected those attached to 00/5213.

#### PA Ref: 01/4761

Planning permission granted in October 2001 for 1 no. dwelling on the site.

#### PA Ref 96/171

Permission granted in June 1996 for 13 no. houses at Iskaheen Road. The decision of DCC to grant permission for the development was subject to 9 no. conditions.

Condition no. 7(a) is of note. This outlines that separate applications shall be made for the houses.

#### PA Ref: 98/2741

Planning permission granted in November 1998 for erection of house on site no. 10 at Iskaheen Road.

PA Ref: 98/2447

Planning permission granted in October 1998 for dwelling at no. 13 Iskaheen Road.

## 5.0 Policy Context

### 5.1. Development Plan

Donegal County Development Plan 2018-2024 (as varied)

- 5.1.1. Muff is designated as a Layer 3 Rural Town within the settlement hierarchy set out within Table 2A.3 “The Towns of the Settlement Structure” of the Donegal County Development Plan 2018-2024.
- 5.1.2. The appeal site is located within the defined settlement boundary of Muff to the north of the town centre. The Plan outlines that no prescribed residential zoning is provided across layer 3 towns in order to provide robustness and flexibility in the approach.
- 5.1.3. Policy CS-P-4 outlines that: *It is the policy of the Council that within the boundaries of towns identified as Strategic Towns due to their ‘Special Economic Function’ (Layer 2B) and in rural towns identified as Layer 3, applications for development will be assessed in the light of all relevant material planning considerations including any identified land use zonings, availability of infrastructure, relevant policies of the Development Plan, other regional and national guidance/policy and relevant environmental designations.*
- 5.1.4. Section 6.2 of the Development Plan relates to Urban Housing. The Plan outlines that Strategic Towns identified as Layer 2B, due their ‘Special Economic Function’ as well as rural towns within Layer 3 will provide opportunities for urban housing of a suitable scale having regard to the Core Strategy, the capacity of available water services and the scale and character of the town.
- 5.1.5. The following policies and objectives of the Plan are of relevance to the proposal:

- TV-P-6: It is the policy of the Council to ensure that development proposals make efficient use of land and do not otherwise hinder the future development potential of backlands within urban areas.
- UB-O-2: To deliver new urban residential development in towns in a sequential manner, outwards from the core making best use of infrastructure, land resources and assisting in regeneration of existing towns.
- UB-P-4: It is a policy of the Council to consider urban housing of 2 or more units on lands located within settlement envelopes of towns identified as Layer 2B and rural towns contained within Layer 3, having regard to the compliance of the proposal with the Core Strategy and having regard to other policies of the County Development Plan including Part C and in the context of the proper planning and sustainable development of the area.
- UB-P-6 It is a policy of the Council to encourage and support proposals for new residential development that will result in the regeneration and/or renewal of town centre areas or areas of vacancy and/or dereliction subject to the policies all other relevant policies of this plan including Part C, relevant national/regional guidance, relevant environmental designation and in the context of the proper planning and sustainable development of the area.
- UB-P-7: It is a policy of the Council that, development proposals for new residential developments (2 or more units) in settlements shall demonstrate that the design process, layout, specification, finish of the proposed development meets the guidelines set out in the following key Government publications:
  - 'Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes, Sustaining Communities,' DEHLG, 2007.
  - 'Sustainable Urban Housing: Design Standards for New Apartments,' DEHLG, 2007.
  - Guidelines on Sustainable Residential Development in Urban Areas,' DEHLG, 2009.

- Urban Design Manual, A Best Practice Guide, A Companion Document to the Planning Guidelines on Sustainable Residential Development in Urban Areas' DEHLG, 2009.
- Sustainable Urban Housing: Design Standards for New Apartments', 2015, DoHPCLG
- UB-P-10: It is a policy of the Council that proposals for new residential development shall demonstrate that a housing density appropriate to its context is achieved, and provides for a sustainable pattern of development whilst ensuring the highest quality residential environment. Lower density ranges may be required having regard to the density and spatial pattern of development on lands that abutt the site. In addition, housing densities will be considered in the light of all other relevant objectives and policies of this Plan, including the objectives and policies set out in Chapter 2A, Core Strategy.
- UB-P-11: Proposals for residential development shall provide a mixture of house types and sizes in order to reasonably match the requirements of different household categories within the Plan area, including those groups with particular special needs. The Council will seek to achieve a balance of housing stock to meet the needs and aspirations of the people residing within the Plan area.
- 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.

### **Sustainable Urban Housing: Design Standards for New Apartments 2023**

Section 2.5 of the Guidelines outline that while the provision of apartments may not be required below the 45 dwellings per hectare net density threshold, they can allow for greater diversity and flexibility in a housing scheme, whilst also increasing overall density. Accordingly, apartments may be considered as part of a mix of housing types in a given housing development at any urban location, including suburbs, towns and villages.



## **Sustainable and Compact Settlements – Guidelines for Planning Authorities**

According to the 2022 Census, the town of Muff had a population of 1,418 in 2022. Section 3.3.5 of the Sustainable and Compact Settlements Guidelines refers to Rural Towns and Villages (<1,500 population) and sets out the following guidance:

*“Rural towns and villages with a population of 1,500 persons or less offer services to a wide rural hinterland. These settlements are not identified for significant population growth under the NPF and should grow at a limited pace that is appropriate to the service and employment function of the settlement, and the availability and capacity of infrastructure to support further development. Planning authorities should look to promote and support housing that would offer an alternative, including serviced sites, to persons who might otherwise construct rural one-off housing in the surrounding countryside in rural towns and villages”.*

Table 3.7 relates to Areas and Density Ranges for Rural Towns and Villages. This outlines the following:

*“Rural Towns and Villages are small in scale with limited infrastructure and services provision. It is a policy and objective of these Guidelines that development in rural towns and villages is tailored to the scale, form and character of the settlement and the capacity of services and infrastructure (including public transport and water services infrastructure). Lands zoned for housing at the edge of rural towns and villages at locations that can be integrated into the settlement and are connected to existing walking and cycling networks can offer an effective alternative, including serviced sites, to the provision of single houses in the countryside. The density of development at such locations should respond in a positive way to the established context”.*

### **5.2. Natural Heritage Designations**

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

- The nearest Natura 2000 site is the Lough Foyle SPA (Site Code: 004087) which is located approximately 1km to the east of the appeal site. Other Natura 2000 sites within the vicinity are located over 9 kilometres from the subject site.

- The Camowen River Bog NHA (Site Code 002045) is located 9km to the north of the site.

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, comprising a greenfield site of 0.148ha in an urban location, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. 3 no. third party appeals were lodged in response of Donegal County Council's notification of decision to grant permission for the development. The following provides a summary of the grounds of appeal.

Bill Ward, 2 Iskaheen Park, Iskaheen Road

- 6.1.2. The appeal raises the following concerns:
- Loss of privacy and impact of development on residential amenity: The appeal raises concern in relation to the impact of the proposal on privacy by reason of overlooking and impact of the proposal on natural daylight to the appellants property.
  - Traffic Impact: The appeal raises concern in relation to the impact of the development on traffic in the area including the primary school at the opposite side of Iskaheen Road.
  - Design and Layout: The appeal outlines that the design and layout of the development is incompatible with the unique character of the cul de sac at Iskaheen Park and the entire Muff area. It is stated that the size and nature of the development with multiple dwellings is unsuitable for the location. The appeal raises concerns in relation to multiple access points and car parking spaces.

- Conclusion: The appeal requests that permission is refused for the development based on the concerns outlined.

Gerard and Caroline Harkin, 1 Iskaheen Park, Iskaheen Road

6.1.3. The appeal raises the following concerns:

- Character of Area: The appeal includes a map which illustrates development within the vicinity of Iskaheen Park and outlines that apartment units are not in line with the character of the area. The appeal outlines that no apartments are located within the immediate area. The appeal outlines that existing apartments are located in Muff above the existing businesses on Main Street.
- Access and Parking: The appeal outlines that the construction of 4 apartment units will increase occupancy on the street by 57% and raises concern in relation to impact on local traffic levels, congestion and parking.
- The appeal raises concern in relation to the impact of the development on the existing school at the opposite side of Iskaheen Road. It is stated that the development could lead to potential hazards, accidents and congestion around the school putting the safety of students and staff at risk.
- Impact on Visual Amenity and Character of Area: The appeal outlines that the development would significantly detract from the visual amenity of the area and the density and layout of the building would not be in keeping with the character of the neighbourhood.
- Contrary to Planning Policy: It is stated that the development is not in accordance with the local, strategic, regional and national policies which dictate that development should be in keeping with the character of the area and not have a detrimental impact on the local community.

Johanna Kelly, 5 Iskaheen Park, Iskaheen Road

6.1.4. The appeal raises the following concerns:

- Character of Area: The proposed apartment development is out of character with existing development in the area and the appeal raises concern in relation to the impact of multi-unit development on the cul de sac.

- Traffic and Congestion: The appeal raises concern in relation to the impact of the proposal on congestion levels in the area which includes a school, footpath pitch and church. The appeal outlines that the existing local road is narrow and raises safety and congestion concerns for all users.
- Impact on Infrastructure: The appeal raises concern in relation to the extra pressure the development will put on the drainage and sewerage system.

## 6.2. Applicant Response

6.2.1. The applicant provided a response the grounds of appeal. The following information is attached:

- Appeal Response prepared by O' Connor Burke Architecture.
- Plans, Elevation, Section – Drawing Reference 04.
- Garden Shed/ Storage Unit – Drawing Reference 07.

6.2.2. The following provides a summary of the key points raised within the appeal response:

### Design and Layout:

- The proposed 2 no. buildings are designed as two houses and are appropriate to the site and are sited and designed to integrate with the mass, scale, design, layout and pattern of other development in the area.
- Section 2 of the appeal report refers to the planning history pertaining to the site. Specific reference is made to the reasons for refusal attached to PA Ref: 01/4081 which related to an application for 2 no. dwellings on site which was refused by Donegal County Council on grounds relating to the design and density not being in accordance with the character of the area and the undesirable precedent which would be set by the development. The appeal response refers to the changing policy context in Ireland and outlines that the development is similar in mass, scale and design to other developments within the area.
- Section 3 of the report provides a description of the proposal and outlines that the proposal exceeds the minimum requirements set out within the

Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2022).

#### Character of Development in the Area:

- The appeal response refers to the existing character of development within the area. It is stated that Iskaheen Park is defined by houses of a variety of mass, scale and design but with common characteristics including gable end pitched roof dwellings. It is stated that existing dwellings are primarily detached except for Units 6 and 6A which are semi-detached dwellings. The finishes of the proposed dwellings reflect those established within the area.

#### Traffic and Parking

- The appeal response outlines that adequate parking is provided within the site to facilitate the development. Shortage of parking for the nearby school, church and community centre is not an issue for the applicant to resolve.
- The proposal provides for an improved footpath system within the vicinity of the site which shall provide for improved pedestrian safety and convenience. The development will not endanger public safety by reason of traffic hazard, nor will it obstruct road users.

#### Restrictions on Types of Units which could be built when purchased off Plan in 1999

- The appeal response outlines that the applicant is not aware of any restriction in this regard and there is no evidence on the planning applications that such restriction existed.

#### Impact of type of residential development

- The appeal response outlines that the type of development proposed is residential similar to other houses within the area. The proposed own door apartment units are proposed to address the housing needs of the area.
- The internal layout of the apartments is design so that overlooking of no. 2 Iskaheen Park does not occur in the manner which would injure the residential amenity of this property. The development will not give rise to residential amenity of adjacent dwellings.

#### Concerns on extra pressure on sewerage and drainage system in place

- The appeal response outlines that the site is a fully serviced site within the footprint of the village.
- The water and sewerage network has the capacity to facilitate the development. Agreement will be required for Uisce Eireann for connection to the sewer and water supply networks, as is standard for all developments.

#### Compliance with Planning Policy

- Section 5 of the applicant's appeal response outlines how the development complies with national, regional and local policy.
- Smaller residential units as proposed are required to deliver more compact housing in urban areas and provide for the inclusive housing needs of the community.
- The development complies with the provisions of national, regional and local planning policy. The development is consistent with Ministerial Guidelines including the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2022).

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

Donegal County Council's response to the grounds of appeal refers to the planner's report which informed the decision of the planning authority to grant permission. The correspondence requests that the Board upholds the local authority's decision to grant permission.

### **6.4. Observations**

An appeal on the appeal was received by Martin McCormick, 3 Iskaheen Park, Iskaheen Road. The following provides a summary of the issues raised:

- The observation objects to the volume of units on site, all sites in the area are one site, one dwelling.
- The observation outlines that the development will result in a larger volume of traffic congestion in an already congested area in proximity to a school.

- There are no apartments on the Iskaheen Road, and the proposed apartments would not be in accordance with the character of the area.
- The observation raises concern in relation to apartments overlooking a primary school.

## 6.5. Further Responses

The appellants provided a response to the applicant's response to the grounds of appeal. The following provides a summary of the key points raised:

### Bill Ward, 2 Iskaheen Park, Iskaheen Road

The submission by the appellant questions the accuracy of and refutes a number of statements made within the appeal response. In this regard the following is noted:

- The submission questions the need for the format of development proposed.
- Residents in the cul de sac complied with the regulations which stipulated that only one dwelling could be constructed on each site. Multiple dwelling on a single plot is not in accordance with the character of development in the area.
- The submission outlines that the statement in the appeal response that the development will not cause traffic hazard is factually incorrect. The appellant restates their grounds of appeal in this regard. The submission cross refer to the photographs submitted in conjunction with the appeal which illustrate the traffic hazards in the area.
- The appellant restates his concern in relation to impact of the proposal on no. Iskaheen Park. The submission raises concern in relation to the proximity and siting of the proposal relative to no. 2 Iskaheen Park and associated overlooking. The visual impact of the development from no. 2 and its impact on natural light is furthermore not addressed.
- The submission refers to the numerous objections to the proposal submitted from residents in the area. Reference is made to the planning history of the site wherein similar developments were refused. It is stated that the development does not fit with the character of the area.

### Gerard and Caroline Harkin, 1 Iskaheen Park, Iskaheen Road

- The density of the development is out of character with the area. The average total dwelling size per plot is 184 sq.m. The proposed development is 154 sq.m. larger than the average.
- The appellants submission refers to existing drainage problems on their property.
- The submission refers to the existing public open space in Iskaheen Park and outlines that the residents of Iskaheen Park pay for the maintenance of this area.

### Johanna Kelly, 5 Iskaheen Park

- The submission restates the grounds of appeal and raises concerns in relation to the format of development, its impact on the established character of the area and its impact on the local road network.
- The submission outlines that the development of a semi-detached unit would help to maintain the atmosphere of a family orientated area.

## **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:

- Density, Design and Layout
- Impact on Residential Amenity
- Traffic Impact and Access
- Other Issues
- Appropriate Assessment

### **7.2. Density, Design and Layout**

7.2.1. The site is located within the settlement boundary of Muff and within the established residential cul de sac of Iskaheen Park. The appeals and observation on the



application outline that the density, design and layout of the development is incompatible with the unique character of Iskaheen Park and the existing village.

- 7.2.2. The appellants refer to the existing character of development within Iskaheen Park which is defined by detached and semi-detached properties on large sites. The appeals refer to the planning history pertaining to the site wherein permission was refused for the development of 2 no. dwellings on the appeal site on grounds relating to excessive density which is inconsistent with the character of the area and undesirable precedent (PA Ref: 00/5213 and 01/4081).
- 7.2.3. I refer to the requirements of Policy UB-P-10 of the Donegal County Development Plan which outlines that: *It is a policy of the Council that proposals for new residential development shall demonstrate that a housing density appropriate to its context is achieved, and provides for a sustainable pattern of development whilst ensuring the highest quality residential environment. Lower density ranges may be required having regard to the density and spatial pattern of development on lands that abutt the site. In addition, housing densities will be considered in the light of all other relevant objectives and policies of this Plan, including the objectives and policies set out in Chapter 2A, Core Strategy.* A number of the appellants assert that the proposal, on grounds of the excessive density of the development, is contrary to Policy UB-P-10.
- 7.2.4. In responding to the grounds of appeal, the applicant outlines that the development responds to the requirements of national and regional policy which support compact growth. The 2022 Census identifies a population of 1,418 persons in the town of Muff. On the basis of the existing population of the town, it would be classified as a Rural Town and Village as defined within the Sustainable and Compact Settlement Guidelines for Planning Authorities.
- 7.2.5. The Guidelines outline that *“it is a policy and objective of these Guidelines that development in rural towns and villages is tailored to the scale, form and character of the settlement and the capacity of services and infrastructure (including public transport and water services infrastructure). Lands zoned for housing at the edge of rural towns and villages at locations that can be integrated into the settlement and are connected to existing walking and cycling networks can offer an effective alternative, including serviced sites, to the provision of single houses in the*

*countryside. The density of development at such locations should respond in a positive way to the established context”.*

- 7.2.6. The proposed development comprises 4 no. apartments on a 0.148-hectare site yielding a density of 27 units per hectare. While I accept that the proposed density is over and above that established within the immediate vicinity of the site, I consider that the development has been designed to respond to and reflect the character of the area. In this regard I note that the proposed blocks read as 2 no. 2 storey dwelling units. I consider that the development has been designed to integrate with the mass, scale, design and layout and pattern of other development in the area. I furthermore consider that the finishes of the proposed dwellings reflect those established within the area. On this basis I do not consider that the proposal is contrary to Policy UB-P-10 of the Donegal County Development Plan.
- 7.2.7. I refer to the planning history pertaining to the site and the previous refusals issued for 2 no. residential units on the appeal site under PA Ref: 00/5213 and 01/4081. I have reviewed the layouts of the dwellings proposed within these applications and note that the layout of the development differed from the current proposal. The previous proposals included the provision of 2 no. residential units in a linear form fronting Iskaheen Park. The current proposal includes a block which faces Iskaheen Park and once which faces Iskaheen Road.
- 7.2.8. The appeals also question the requirements for apartment format developments within Iskaheen Park. The appeal from Gerard and Caroline Harkin refers to the spatial distribution of residential units within Muff and outlines that the apartment format is provided for within Muff town centre.
- 7.2.9. In this regard I refer to the provisions of the Section 2.5 of the Sustainable Urban Housing Apartment Guidelines which outline that apartments can allow for greater diversity and flexibility in a housing scheme and apartments may be considered as part of a mix of housing types in a given housing development at any urban location, including suburbs, towns and villages. I furthermore refer to the requirements of Policy UB-P-11 which supports a mixture of house types and sizes within developments.
- 7.2.10. In conclusion, I consider that the design and layout of the development responds to the existing character of development within the area. I consider that the proposed

redevelopment of the overgrown site within an existing residential cul de sac in the development boundary of Muff will support compact growth and provide an appropriate mix of housing units within an accessible location. I consider that the development is in accordance with Policies UB-P-10 and UB-P-11 of the Donegal County Development Plan.

### **7.3. Impact on Residential Amenity**

- 7.3.1. The appeal submitted by Bill Ward, no. 2 Iskaheen Park raises concern in relation to the impact of the proposal on the residential amenity of his property which is located to the east of the site. The appeal raises concern in relation to overlooking and impact of the proposal on natural daylight to the appellants property.
- 7.3.2. I refer to the Plans, Section and Elevation Drawing submitted in response to Donegal County Council's request for further information. On an overall basis, I am satisfied that the design and layout of the apartments negate against overlooking. The eastern elevation of the apartment unit which adjoins the appellants property has 1 no. window opening at first floor level within the stairwell landing area and a further window opening on the northern elevation. I refer to the requirements of Condition no. 12 b of Donegal County Council's notification of decision to grant permission for the development which outlines that these window openings shall be glazed with frosted glass. I consider that this would address any potential overlooking of the appellants property. I recommend the inclusion of this condition in the instance that the Board is minded to grant permission for the development.
- 7.3.3. I note the provision of a balcony at first floor level of both apartment blocks. However, having regard to the orientation of the balcony in Apartment Unit no. 2 relative to the appellants property to the east I do not consider that significant overlooking of the appellants property would occur.
- 7.3.4. In conclusion, I do not consider that the development will result in undue overlooking of the appellants dwelling or any other dwelling within the vicinity.
- 7.3.5. In terms of the appellants concern in relation to the impact of the proposal on daylight levels I note that a daylight, sunlight and overshadowing assessment was not submitted with the application. Section 5.3.7 of the Sustainable and Compact Settlements Guidelines notes that the provision of acceptable levels of daylight in new residential developments is an important planning consideration. However,

planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases and that in the case of low-rise housing with good separation distances, it should be clear from the assessment of architectural drawings that undue impact would not arise.

- 7.3.6. Given the characteristics of the proposed development I am satisfied that it would not result in overshadowing of any existing or proposed residential dwellings and a technical assessment of daylight, sunlight and overshadowing performance is not necessary in this instance. I note the 2-storey height of the proposed units, the separation distance of 9m from eastern units to the appellants property, the siting of the dwelling to the west of the appellants property and the absence of window openings on the southwest facing elevation of the appellants property. I am satisfied that the development will not result in significant loss of daylight to the appellants property.
- 7.3.7. Overall, I am satisfied that daylight, sunlight and overshadowing impact from the proposed development upon existing properties will be within an acceptable range for an existing suburban environment and not significantly harmful.

#### *Residential Amenity of Proposed Units*

- 7.3.8. The proposed development includes the development of 4 no. apartment units. Each apartment is 76 sq.m. and has generous private open space to the rear of each block (ranging from 80 sq.m. to 110 sq.m. as illustrated on Drawing no. 2218-06). Drawing no. 2218-04 Plans, Elevations and Section submitted in conjunction with the applicant's appeal response includes a Table detailing compliance with the various design standards set out within the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2023). I am satisfied that the proposed units are in compliance with or exceed the minimum requirements set out in the majority of instances.
- 7.3.9. I note that the internal storage provided within the apartments at 3 sq.m. is less than the 6 sq.m. requirement. However, each apartment is also served by external storage of 3.9 sq.m. in the format of a garden shed. I am satisfied that sufficient storage is provided for each apartment.
- 7.3.10. On an overall basis, I consider that the proposal would provide a good quality of residential amenity for the future occupants of the scheme.

#### **7.4. Traffic Impact and Access**

- 7.4.1. The appeals raise concern in relation to the restrictions of the local road network to accommodate the proposal and the impact of the proposal on traffic congestion in the area. The appeals refer to the existing character of development within the area which includes a primary school, church and community centre and outlines that the Iskaheen Road is congested at peak times.
- 7.4.2. The proposal includes the development of 4 no. apartment units which are each served by 2 no. on-site parking spaces. Access to Units 1 and 2 is provided via Iskaheen Park and access to proposed units 3 and 4 is provided via Iskaheen Road. Both roads run in a straight alignment in the vicinity of the site. I am satisfied that appropriate sight lines can be provided at each entrance in accordance with DMURS as illustrated on drawing no. 2218-03 Proposed Site Layout Plan. I note that the Roads Department in DCC have not objected to the principle of the proposed entrances subject to condition.
- 7.4.3. Each apartment units is served by 2 no. car parking spaces. The proposed spaces are 5 x 2.5m and I consider that sufficient circulation space is provided on site for maneuvering of vehicles.
- 7.4.4. In terms of the concerns raised within the appeal, I am satisfied the provision of in curtilage parking will negate against overspill onto the adjoining road network. On an overall basis, I do not consider that the proposal represents a scale or format of development which would significantly contribute to traffic congestion within the area.

#### **7.5. Other Issues**

##### Site Services

- 7.5.1. The appeals raise concern in respect of infrastructural deficiencies to serve the development in terms of foul and storm water sewerage. The proposal seeks to connect to the existing public sewer network on Iskaheen Park and Iskaheen Road. I note that connection to the foul water network is a matter for Uisce Eireann. There is no correspondence from Uisce Eireann on file but having regard to the location of the site within an existing residential development, I am satisfied that this can be appropriately addressed by means of condition in the instance of a grant of permission.

7.5.2. The proposal seeks to discharge surface water to the stream bounding the southwestern boundary of the site. According to OPW CFRAMS flood mapping there is no recorded history of flood risk in the area. I furthermore note that Donegal County Council's AA Screening Determination outlines that an increase in the level of surface water run off at this location would not be material given the location of the site within the settlement boundary of Muff and the extent of hard surfaced ground within the vicinity. On the basis of the small-scale nature of the development and the existing character of development in the area I have no objection to the surface water proposals. I consider that final details should be agreed with the Planning Authority prior to the commencement of development. I am satisfied that this can be addressed by means of condition.

#### Overlooking of School

7.5.3. The observation on the appeal furthermore raises concern in relation to overlooking from the apartment units to the primary school at the opposite side of Iskaheen Road. Having regard to the separation distance between the nearest dwelling and the school (over 40m), the orientation of the proposed units and the nature of intervening development (Iskaheen Road) I am satisfied that no undue overlooking of the school will occur.

### **7.6. Appropriate Assessment**

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

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.

#### **7.6.2. Background on the Application**

A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

#### **7.6.3. Screening for Appropriate Assessment- Test of likely significant effects**

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The subject site is located approximately 1km from the nearest Natura 2000 site the Lough Foyle SPA (Site Code: 004087). The existing river which runs to the north-west of the appeal site provides a hydrological connection to the SPA. EPA mapping illustrates that the river flows in an eastern direction towards the SPA. Storm water proposals for the development seek to outfall to this existing watercourse.

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

The Lough Foyle SPA is the only Natura 2000 site within the immediate vicinity that has the potential to be affected by the proposed development. All other Natura 2000 sites are located in excess of 9 kilometres from the subject site and due to the separation distance and the modest nature of the development proposed there is no potential to adversely impact on Natura 2000 sites in the wider area.

#### 7.6.4. Brief description of Development

The development is described at Section 2 of this Report. In summary, permission is sought for construction of 4 no. apartment units and associated site development works including connection to public sewer and surface water outfall to the existing watercourse adjoining the site.

#### 7.6.5. Submissions and Observations

The submissions from the appellant, applicant and Planning Authority are summarised as Section 6 of my Report. No specific concerns in relation to the impact of the proposal on Natura 2000 sites are raised within the grounds of appeal.

Donegal County Council's Screening Determination concludes that: *it can be excluded on the basis of objective scientific information that the subject development when considered individually or in combination with other plans/projects has had or will have a significant effect on a European Site – Lough Foyle SPA (site code: 004087).*

I have reviewed the contents of the planning authority's screening report and note that Section 3 entitled "Assessment of Likely Effects" refers to remedial works and submitted ecological report. These references do not seem to relate to the appeal

site or the proposed development. Notwithstanding this, as noted, I have carried out this assessment de novo.

7.6.6. European Sites

The subject site is located approximately 1km from the nearest Natura 2000 site the Lough Foyle SPA (Site Code: 004087). The existing river which runs to the north-west of the appeal site provides a hydrological connection to the SPA. The proposal seeks to discharge surface water to this watercourse.

There are other European sites within a 15km search zone, however; in view of the small scale nature of the development, I am satisfied that there is no possibility of significant effects arising at any European site other than those in the immediate vicinity of the site.

A summary of the Lough Foyle SPA is presented in the table below.

<b>European Site (code)</b>	<b>List of Qualifying interest /Special conservation Interest</b>	<b>Distance from proposed development (Km)</b>
<u>SPA</u>		
Lough Foyle SPA (Site Code 004087)	Red-throated Diver, Great Crested Grebe, Bewick's Swan, Whooper Swan, Greylag Goose, Light-bellied Brent Goose, Shelduck, Wigeon, Teal, Mallard, Eider, Red-breasted Merganser, Oystercatcher, Golden Plover, Lapwing, Knot, Dunlin, Bar-tailed Godwit, Curlew, Redshank, Black-headed Gull, Common Gull, Herring Gull and Wetland and Waterbirds	c. 1km – hydrological connection via adjacent watercourse

The NPWS website outlines that the SPA is of high ornithological importance as it is part of an internally important wetland site that supports internationally important populations of Whooper Swan, Light bellied Brent Goose and Bar tailed Godwit and nationally important populations of a further 18 species.

7.6.7. Evaluation of Potential Significant Effects

I have considered the proposal in terms of potential impacts on the SPA during the construction and operational phases of the development.



Construction related impacts relate to the escape of suspended soils or oil to the watercourse which runs to the north-west of the site and outfalls to the Lough Foyle SPA (004087). The proposal is small scale in nature and will involve standard construction methods.

I note that a Construction Management Plan was not submitted in support of the application which details measures which would be adopted at construction phase of the development to negate against impact on the adjoining watercourse. In practice these may include standard and site-specific measures, such as those set out in TII publication Guidelines for the Crossing of Watercourses during Construction of National Road Schemes and IFI's Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters. In this regard, I refer to the requirements of Condition no 12 (c) of Donegal County Council's notification of decision to grant permission for the development which relates to adherence to the best practice Inland Fisheries Guidelines for protection of Fisheries Habitat during Construction and Demolition works at River Sites.

Construction activity may also give rise to disturbance of Species of Conservation Interest within the SPA but any SCI in the area of the site will be habituated to noise associated with daily activity within the area.

At operational phase the proposal includes outfall of surface water to the River to the northwest of the site. Having regard to the scale of development, I consider that run off from the site will be limited. Foul drainage proposals seek to connect to the existing foul water network in the vicinity of the site.

Although a source-pathway-receptor linkage exists between the application site and the designated habitats of the Lough Foyle SPA (Site Code: 004087) in this instance, given the nature of the qualifying interests of the SPA and the scale of the proposed development, the distance of the appeal site from the SPA and dilution effects I do not consider that impacts on the downstream SPA would arise.

I am satisfied, in view of this, that significant effects on the SPA arising during construction and operational are unlikely and the issue can therefore be excluded at this stage.

#### 7.6.8. Cumulative Impacts

As there are no impacts to the SPA arising as a result of this development, there is no potential for cumulative impacts. There are no likely impacts arising from the proposed development on Natura 2000 sites and therefore cumulative impacts with other projects will not occur.

#### 7.6.9. Conclusion

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 the project individually or in combination with other plans and projects would not be likely to give rise to significant effects on Lough Foyle SPA (Site Code 004087) or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore not required.

### **8.0 Recommendation**

8.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

### **9.0 Reasons and Considerations**

Having regard to the site's location within the settlement boundary of Muff, to national and local policy objectives which support compact growth, the location of the site within the Development Boundary of Muff, the pattern of development in the area and the nature and scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the established character or residential or visual amenities of the area and would not endanger public safety by reason of traffic hazard. 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 8<sup>th</sup> of February 2023 and the 4<sup>th</sup> of April 2023, 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. The apartments the subject of this permission shall be used as permanent residential units only.

**Reason:** In the interest of clarity.

3. The proposed first floor windows serving the stairwell at proposed apartment no. 2 (the easternmost apartment block) shall be permanently glazed with obscure glass.

**Reason:** In the interest of residential amenity

4. Proposals for a naming scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Complete details (including design, size, configuration, specification, location etc.) of the signage shall be submitted to and agreed with the planning authority prior to being erected.

**Reason:** In the interest of visual amenity and orderly development.

5. Landscaping within the site shall be carried out in accordance with the Landscaping Plan submitted to the Planning Authority on the 8<sup>th</sup> of February 2023 prior to occupation of the apartments.

**Reason:** In the interest of visual and residential amenity.

6. 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. No surface water from the site shall be permitted to discharge to the public road.

**Reason:** In the interests of public health.

7. The applicant shall enter into water and wastewater connection agreements with Uisce Eireann, prior to commencement of development.

**Reason:** In the interest of public health.

8. The proposed vehicular entrances to the development and proposed perimeter footpath 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).

**Reason:** In the interests of pedestrian and traffic safety.

9. 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.

**Reason:** In the interests of visual amenity.

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 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.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

11. 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, pollution control and contingency plan, hours of working, and noise/dust management measures.

**Reason:** In the interests of public safety and residential amenity.

12. Site preparation and construction shall adhere to best practice and shall conform with the Inland Fisheries Ireland Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites.

**Reason:** To preserve the amenities of the area and to prevent water pollution.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

14. 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.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the 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.

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Stephanie Farrington  
Senior Planning Inspector

31<sup>st</sup> of January 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	316015-23		
<b>Proposed Development Summary</b>	4 apartments and associated site works		
<b>Development Address</b>	Ardmore, Muff, Milford, Co Donegal		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	X	Yes. Class (10)(b) of Schedule 5 Part 2	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	316015-23	
<b>Proposed Development Summary</b>	4 apartments and associated site works	
<b>Development Address</b>	Iskaheen Road and Iskaheen Park, Ardmore, Muff, Co. Donegal	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>No. The development is located within an existing urban context.</p> <p>No significant waste, emissions or pollutants are envisaged.</p>	<p>No</p> <p>No</p>
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>		<p>No</p> <p>No</p>

<p>regard to other existing and/or permitted projects?</p>		
<p><b>Location of the Development</b> Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans and projects would not be likely to give rise to significant effects on the Lough Foyle SPA (Site Code: 004087) or any other European site in view of the site's Conservation Objectives.</p>	<p>No</p> <p>No</p>
<p>• <b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p> <p>X</p>	<p>• <b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>EIAR required.</p>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_