



An
Bord
Pleanála

Inspector's Report

ABP-317294-23

Development	Replacement of Assaranca Bridge
Location	Along the L2843, Maghera, Ardara, Co. Donegal
Local Authority	Donegal County Council
Type of Application	Application for approval made under section 177AE of the Planning & Development Act, 2000 (as amended) (local authority development requiring appropriate assessment)
Prescribed Bodies	None
Observer(s)	None
Date of Site Inspection	27 th July 2023
Inspector	Anthony Kelly

1.0 Introduction

- 1.1. Donegal County Council is seeking approval from An Bord Pleanála to undertake the replacement of Assaranca Bridge within Slieve Tooley / Tormore Island / Loughros Beg Bay SAC which is a designated European site. There is one other designated European site in proximity to the proposed works (see further analysis below). A Natura Impact Statement (NIS) and application under section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning & Development Act, 2000 (as amended), requires that where an appropriate assessment (AA) is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, section 177V of the Planning & Development Act, 2000 (as amended), requires that the AA shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the AA shall be carried out by the Board before consent is given for the proposed development.

2.0 Site and Location

- 2.1. The site is located approx. 6km west of Ardara in west Co. Donegal and immediately north of Assaranca waterfall.
- 2.2. The existing single-span bridge across part of the lower reach of the Barr Coilleadh watercourse is located on a local road (L2843). The bridge has a span length of 5.5 metres and is 3.4 metres wide with a 2.7 metres wide carriageway. The road is typical of a local road in a rural area and the existing bridge is not capable of accommodating two-way traffic. The existing bridge is at gradient with the local road on both approaches. The river flows in a northerly direction and discharges to Maghera Strand / Loughros Beg Bay approx. 300 metres to the north west. The view to the north of the bridge is an open view across the bay. The view south of the bridge is of Assaranca waterfall and steep hillsides in close proximity to the road and bridge. A layby parking

area for visitors to the waterfall is located immediately south east of the bridge. There are narrow soft road verges on approach from the west.

3.0 Proposed Development

3.1. It is proposed to replace the existing single span bridge with a precast concrete box culvert with precast wing walls and stone wall parapets. The proposed replacement bridge will have a similar soffit level to the existing bridge, and the existing road level, alignment, and width will be matched to the current layout.

3.2. The application is accompanied by:

- a Natura Impact Statement (NIS) prepared by Woodrow APEM Group (Woodrow) dated February 2023,
- design drawings prepared by the planning authority, and,
- a list of prescribed bodies notified of the proposed development and copies of public notices.

4.0 Planning History

4.1. The Donegal Co. Co. online planning viewer does not show any planning application at or in the vicinity of the subject site.

5.0 Legislative and Policy Context

EU Habitats Directive (92/43/EEC)

5.1. This Directive deals with the conservation of natural habitats and of wild fauna and flora throughout the EU. Articles 6(3) and 6(4) require an AA of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European site (SAC or SPA).

European Communities (Birds and Natural Habitats) Regulations 2011 (as amended)

- 5.2. These regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in article 42(21) that where an AA has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for AA under its own code of legislation is required to take account of the AA of the first authority.

Planning & Development Act, 2000 (as amended)

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

- (i) the likely effects on the environment,
- (ii) the likely consequences for the proper planning and sustainable development of the area, and,
- (iii) the likely significant effects on a European site.

Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2010)

5.4. This guidance is intended to assist and guide planning authorities in the application of articles 6(3) and 6(4) of the Habitats Directive as it relates to their roles, functions, and responsibilities in undertaking AA of plans and projects. It applies to plans and projects for which public authorities receive an application for consent, and to plans or projects which a public authority wishes to undertake or adopt.

County Donegal Development Plan 2018-2024 (as varied)

- 5.5. The relevant provisions of the Plan are set out below:
- Policy T-P-2 – It is a policy of the Council to support and facilitate the appropriate development, extension and improvement of Donegal’s transport network ... subject to environmental, safety and other planning considerations.

6.0 Consultations / Observations

- 6.1. The application was circulated to the following prescribed bodies by Donegal Co. Co.:
- Minister for Communications, Climate Action and Environment
 - Department of Housing, Local Government and Heritage
 - National Parks & Wildlife Service (NPWS)
 - Environmental Protection Agency
 - Office of Public Works
 - Inland Fisheries Ireland
 - Waterways Ireland
 - Uisce Éireann

- Electricity Supply Board
- An Taisce
- Fáilte Ireland

6.2. No observations or submissions have been received by the Board, either from the consultees outlined above, or from any other third party on foot of the public notices.

7.0 Assessment

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

- 7.1. The proposed development is for the replacement of the existing Assaranca bridge over the Barr Coilleadh river along a local road in a rural area. The planning authority states 'The steel railings are in poor condition, with a number of railing members missing, and they currently provide minimal protection to pedestrians ... The main bridge structure is also in poor condition. Steel beams within structure are corroded and concrete has spalled from adjacent filler beams'.
- 7.2. The planning framework relevant to the proposed development is limited. The site area, given its rural location, is not zoned for any particular purpose. Therefore the current use i.e. public road/bridge, is the relevant land use.
- 7.3. Policy T-P-2 of the County Donegal Development Plan 2018-2024 (as varied) states that it is policy to support and facilitate the improvement of the county's transport network. Given the condition of the existing bridge as described in the application, with supporting photographs, I consider that the proposed development would improve the road network at this location and would be consistent with the relevant provisions of the Plan.
- 7.4. The proposed development would maintain the existing soffit level of the bridge and would also maintain the existing road level, alignment, and width. Stone parapet walls would replace the existing dilapidated steel railings. In addition to being a structural improvement to the existing bridge, I also consider that the proposed development

would be appropriate at this rural location and would not appear as an incongruous visual intervention in the landscape.

- 7.5. Having regard to the foregoing, I consider that the proposed development would be consistent with the relevant planning framework and would accord with the proper planning and sustainable development of the area.

2. The likely effects on the environment

- 7.6. No EIA screening report was submitted with the application. Notwithstanding, the proposed development does not fall under any category in schedule 5 of the Planning & Development Regulations, 2001 (as amended) or section 50(1)(a) of the Roads Act, 1993 (as amended) for a mandatory environmental impact assessment report (EIAR). Having regard to the relatively limited nature and scale of the proposed development, in my opinion an EIAR is not warranted for the proposed development. I note the public notices state that the planning authority has concluded that no EIA is required in accordance with article 120(1)(b)(i) of the Regulations.
- 7.7. The proposed development involves the removal of the existing bridge and construction of a replacement bridge. An envisaged construction sequence is outlined in section 3.1 of the applicant's NIS as follows: establish the site, strip topsoil and ensure suitability for crane and deliveries, temporary dam for riverbed works, works to river bed to improve flow, cast the base, culverts and wing walls, backfill culverts and riverbed, road construction, and parapet construction, drainage, fencing, and demobilisation.
- 7.8. There would be limited impact on **population and human health** as a result of the proposed development. In the event of the road being closed for a period during construction, residents west of the bridge would not be cut off from Ardara / N56 but they would have a longer journey to access these areas. I do not consider that the construction phase would have any undue impact on residential amenity other than the normal construction traffic nuisance along the L2843. The closest house to the site is approx. 400 metres away so any noise or other construction nuisance would not be significant. The proposed development would not, in itself, result in more traffic post-construction.

- 7.9. The applicant has not submitted an ecological impact assessment or other detail with regard to **biodiversity** with the exception of a NIS which is considered in the following section (The likely significant effects on a European site) of this inspector's report.
- 7.10. Direct impacts of the proposed works could include vegetation clearance along the banks, possible debris from demolition works falling into the watercourse, temporary noise and vibration impact, dust, lighting, and surface water runoff. I note that the NIS was informed, inter alia, by a desk study carried out on February 15th (the year is not provided but I assume it is 2023). The NIS states on page 5 that 'The proposed working boundary is located on Improved agricultural grasslands (GA1)'. Apart from the road and river the immediate vicinity, and particularly the area north of the bridge between the road and Maghera Strand / Loughros Beg Bay, is characterised by EPA Corine land cover as peat inland wetlands. The scenic Assaranca waterfall is located immediately south of the bridge with an informal hardstanding car parking associated with it located immediately south east of the bridge.
- 7.11. Should works proceed, in the absence of mitigation, there would be potential for negative effect to the Slieve Tooley / Tormore Island / Loughros Beg Bay proposed Natural Heritage Area (pNHA) which overlaps with the SAC. Impacts include very minor habitat removal, instream works, surface water emissions/pollutants, and disturbance. I consider that any operational phase effects would be similar to current effects i.e. no additional or new effects.
- 7.12. Standard and well-proven construction mitigation measures are set out in the NIS, as outlined in the following section of this inspector's report. Among the mitigation measures set out there is reference to the employment of an ecological clerk of works (ECoW) and to otters. A holt in close proximity to the bridge was noted by the author of the NIS. The mitigation measures outlined in the NIS would also benefit the general biodiversity of the immediate area as well as the qualifying interests (QIs) and special conservation interests (SCIs) of the SAC and SPA. This is a relatively common construction project, of relatively limited construction phase duration, with operational phase activities the same as currently exists, and I do not consider that it would have an undue adverse impact on the biodiversity of the area.
- 7.13. The proposed development is of such limited scale that there is not likely to be any impact on **land, soil, water, air, and climate**. Any additional land take or impact on

soil would be minimal. It is not proposed to change the alignment of the Barr Coilleadh river though it is proposed to clear a small area of the river bank to the south side of the bridge to 'improve flow' according to the proposed site layout plan. The same layout plan shows a realigned drain south west of the bridge, required because of the proposed culvert and wing wall. These limited alterations would not have any significant impact to water. Issues of air and climate would not be affected by the relatively limited scale of the proposed works.

7.14. Similarly in my view the proposed development would have very limited impact on issues of **material assets, cultural heritage and the landscape**. The material asset of public infrastructure would be improved as a result of the proposed development. A bridge in relatively poor condition is to be replaced. In terms of cultural heritage the existing bridge is not a protected structure, and it is not included in the national inventory of architectural heritage (NIAH). The archaeology.ie website (accessed on 31st July 2023) shows the nearest recorded monument or NIAH feature to the bridge is approx. 800 metres to the north west (hearth sites, ref. DG073-035). I consider that the loss of the existing bridge would not have any undue impact on the historic fabric of the area. In terms of landscape there would be negligible impact. The proposed bridge is in a low-lying area and would only be visible in close proximity to it. I consider that its modest design is appropriate to this rural area.

7.15. Having regard to the foregoing, I consider that the demolition of the existing bridge is acceptable in principle, and it would not have any undue adverse environmental impact. The scale and design of the proposed bridge is appropriate to its function as a local road bridge as part of the local road network in a rural area. It would not generate any additional traffic. Mitigation measures proposed as part of the AA process, as set out below, would also apply to biodiversity issues that may arise. I conclude that the proposed development would not have any significant likely effects on the environment.

3. The likely significant effects on a European site

7.16. The areas addressed in this section are as follows:

- Compliance with article 6(3) of the EU Habitats Directive
- The Natura Impact Statement (NIS)

- Appropriate Assessment (AA)

Compliance with article 6(3) of the EU Habitats Directive

- 7.17. The Habitats Directive deals with the conservation of natural habitats and of wild fauna and flora throughout the EU. Article 6(3) of this directive requires that any plan or project not directly connected with or necessary to the management of a European site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to AA of its implications for the site, in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.
- 7.18. The proposed development is not directly connected to or necessary to the management of any European site and is therefore subject to the provisions of article 6(3).

The Natura Impact Statement (NIS)

- 7.19. The application is accompanied by a NIS which, inter alia, describes the project site and proposed works, the European sites within the zone of influence (Zol), an assessment of potential impacts, an in-combination assessment, mitigation, and a conclusion. A screening for AA report is attached as appendix I to the NIS rather than as a separate, stand-alone document. Appendix I appears to be a summary of the original screening report as prepared by different environmental consultants (Greentrack) than that which prepared the NIS (Woodrow). The screening determination found that significant effects to Slieve Tooley / Tormore Island / Loughros Beg Bay SAC and West Donegal Coast SPA could not be excluded, and stage 2 AA was required. Appendix II to the NIS is a brief method statement for the proposed works.
- 7.20. The NIS was informed by a desk study and a field survey carried out on February 15th.
- 7.21. The NIS concludes that 'if the mitigation measures specified for proposed works are implemented ... the proposal will not, in the light of best scientific knowledge, adversely affect the integrity of the Slieve Tooley/Tormore Island/Loughros Beg Bay SAC or any other European Sites, either alone or in combination with any other plans and projects'.

- 7.22. I note that no observation or submission has been received from any third party or prescribed body that relates to impact on a European site.
- 7.23. Having reviewed the NIS and the supporting documentation I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. Detail of mitigation measures are provided in section 8 of the NIS. I am satisfied that the information is sufficient to allow for AA of the proposed development.

Appropriate Assessment (AA)

Stage 1 Screening

- 7.24. Section 177AE of the Planning & Development Act, 2000 (as amended), sets out the requirements for AA of development carried out by or on behalf of a local authority. Section 177AE(3) states that where a NIS has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the AA. There is no requirement for the Board to undertake screening in these cases as it is presupposed that the local authority has established the need for AA through its own screening process (unless issues arise as to the adequacy or otherwise of the screening determination by the applicant). Nonetheless, it is considered prudent to review the screening process to ensure alignment with the site(s) brought forward for AA and to ensure that all site(s) that may be affected by the development have been considered.
- 7.25. A 15km radius from the application site is the distance normally used for considering the potential for impact of a proposed development on a European site, though this is extended or reduced depending on the type and scale of the proposed development, the nature of the European site etc. Having regard to the information available, the nature, size, and location of the proposed development, its likely direct, indirect, and cumulative effects, the source-pathway-receptor principle, and sensitivities of the ecological receptors, the only European sites that I consider relevant for inclusion for the purpose of initial screening on the basis of likely significant effects are those in the immediate proximity or those that are hydrologically linked, given the nature of the proposed works. The European sites that meet these criteria are:

Table 1 – European sites considered at the screening stage.

European site (site code)	Qualifying interests (QI) / Special conservation interests (SCI)	Distance	Source – pathway – receptor link?
<p>Slieve Tooley / Tormore Island / Loughros Beg Bay SAC (000190)</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Atlantic salt meadows [1330]</p> <p>Mediterranean salt meadows [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Decalcified fixed dunes with <i>Empetrum nigrum</i> [2140]</p> <p>Atlantic decalcified fixed dunes [2150]</p> <p>Dunes with <i>Salix repens</i> ssp. <i>argentea</i> [2170]</p> <p>Humid dune slacks [2190]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Narrow-mouthed whorl snail [1014]</p> <p>Otter [1355]</p> <p>Grey seal [1364]</p>	<p>Assaranca bridge is within the SAC</p>	<p>Yes. Location and hydrology.</p>
<p>West Donegal</p>	<p>Fulmar [A009]</p> <p>Cormorant [A017]</p>	<p>Approx 700 metres to</p>	<p>Yes. Proximity and</p>

Coast SPA (004150)	Shag [A018] Peregrine [A103] Herring gull [A184] Kittiwake [A188] Razorbill [A200] Chough [A346]	the north west	hydrological link to strand / bay
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7.43 Based on my examination of the application, the NIS, supporting information such as the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, the separation distance and functional relationship between the proposed works and the European sites, the sites' conservation objectives, and taken in conjunction with my assessment of the subject site and the surrounding area, I agree with the applicant's screening for AA and conclude that stage 2 AA is required for Slieve Tooley / Tormore Island / Loughros Beg Bay SAC and West Donegal Coast SPA.

Stage 2 AA

Slieve Tooley / Tormore Island / Loughros Beg Bay SAC (site code 000190)

Description of site

7.44 This large and scenic site covers the northern half of the Slieve League peninsula in Co. Donegal, stretching from Ardara in the east towards Glencolmbkille and Glen Bay in the west. Along its northern side, the site is fringed by a range of coastal habitats, including sea cliffs, stacks, islets, caves, sand dunes, the Loughros Beg Bay estuary and salt marshes. Inland, the area is generally mountainous, rising to 511 m O.D. south of Lough Croaghballaghdown.

7.45 Grey seal breed in sea caves in this site. Otter occurs throughout much of the site. In 2000 a population of the rare snail narrow mouthed whorl snail was discovered in the sand dunes at Glen Bay. This is one of only two known sites in Donegal for this mollusc. This large site is of major ecological significance for its range of good quality coastal and terrestrial habitats. The coastal habitats in the site are intact and of good

quality, and provide important habitat for breeding birds and seals, as well as the rare whorl snail.

Conservation objectives

- 7.46 The conservation objectives are set out in the 'Conservation Objectives Series Slieve Tooley / Tormore Island / Loughros Beg Bay SAC 000190' document published by NPWS. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Although there are fifteen QIs of the SAC, as per S.I. No. 651 of 2021, only ten QIs have site-specific conservation objectives published by NPWS. Of the ten, seven have the conservation objective to maintain the favourable conservation condition. Three QIs have conservation objectives to restore the favourable conservation condition i.e. white dunes [2120], Alpine and boreal heaths [4060], and blanket bog [7130]. The five QIs that do not have site-specific conservation objectives are Atlantic [1330] and Mediterranean [1410] salt meadows, grey dunes [2130], dunes with *Salix repens* ssp. *argentea* [2170], and humid dune slacks [2190]. Notwithstanding, three of the five habitats (excepting both salt meadows) are mapped in the NPWS document.
- 7.47 The NIS considers that there is potential for impacts to aquatic QI species otter and seal through direct impacts of mortality of otter and loss of a potential holt (which was noted in proximity to the bridge by the applicant), and indirect impacts being disturbance to otter during the construction phase and negative impacts on water quality. On my site inspection the area identified as the otter holt location was overgrown and it was not visible.
- 7.48 Table 3 of the applicant's NIS contains a list of the QIs where it is assessed that there is no potential for negative impacts to occur. These are excluded primarily because of distance to the relevant habitat and the absence of connectivity. I note the applicant states that neither salt meadow habitat type was recorded onsite during the site visit. Attributes, measures, and targets for both salt meadow habitats are provided for West of Ardara / Mas Road SAC, north of the Slieve Tooley / Tormore Island / Loughros Beg Bay SAC and none of these refer to water quality. Though decalcified fixed dunes, Alpine and boreal heath, and blanket bog are not mapped I am satisfied the proposed development would not affect these habitats, given the nature of the application, the location of works, and the content of the NIS.

7.49 I agree with the applicant's NIS in terms of the QI habitats and species that could be affected by the proposed development or that can be excluded from further consideration.

Potential direct impacts

7.50 The NIS describes potential direct impacts to otter resulting from mortality or the loss of a potential holt which was identified adjacent to the existing bridge along with other evidence of otter i.e. potential spraint.

Potential indirect impacts

7.51 The NIS describes potential indirect impacts as disturbance to otter during the construction phase and negative impacts on water quality.

7.52 For otter, relevant attributes set out in the conservation objectives series document include extent of river habitat, availability of fish biomass, and barriers to connectivity. I note initially that the proposed works would affect neither the extent of river habitat nor result in any barrier to connectivity. Water quality is a requirement for fish biomass. Therefore any significant reduction in water quality may affect the availability of prey for otters and grey seals (though it is not included as an attribute for grey seal).

Mitigation Measures

7.53 Mitigation measures are set out in section 8 of the applicant's NIS. They relate to ecological supervision, otter, and water quality impacts. These include, for example, employment of an on-site ECoW, pre-construction otter survey, no works until any young have left the holt, derogation licence if applicable, no nocturnal lighting, no direct dewatering to the watercourse, and any refuelling of equipment or concrete washout a minimum 20 metres from the watercourse.

7.54 The NIS states that these mitigation measures are 'all that is required to ensure that the proposal will not result in adverse effects on the integrity of any European site'.

7.55 I consider that the proposed mitigation measures are appropriate and have a high degree of likely success. I note in particular the appointment of an ECoW. The proposed development is a routine construction project, and these are standard and well-proven mitigation measures. I note that some proposed mitigation measures use terminology such as 'should'. These mitigation measures should be read as 'shall' and can be conditioned as such should permission be granted.

Residual effects / further analysis

7.56 In consideration of the outlined mitigation measures, I am satisfied that no residual impact is anticipated.

Potential in-combination effects

7.57 The NIS does not consider there would be in-combination effects and I concur with this.

NIS omissions

7.58 None noted.

Suggested related conditions

7.59 Given the relatively limited nature and scale of the proposed development, I do not consider any specific related conditions are necessary in addition to the mitigation measures proposed.

Integrity test

7.60 Following the implementation of mitigation, I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of Slieve Tooley / Tormore Island / Loughros Beg Bay SAC in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

West Donegal Coast SPA (site code 004150)

Description of site

7.61 The West Donegal Coast SPA comprises separate sections of the Co. Donegal coastline. The site includes the high coast areas and sea cliffs of the mainland and Aran Island, the land adjacent to the cliff, areas of sand dunes/machair, and also several areas further inland of the coast. The high water mark forms the seaward boundary, except at Tormore Island where the adjacent sea area to a distance of 500 metres from the cliff base is included. Vegetated sea cliffs are the predominant habitat of the site.

Conservation objectives

7.62 The conservation objectives are set out in the 'Conservation objectives for West Donegal Coast SPA [004150]' document published by the Department of Housing, Local Government and Heritage. First-order site-specific conservation objectives are available for this site. First-order site-specific conservation objectives are replaced by detailed site-specific objective documents once these are prepared. Notwithstanding that site-specific conservation objectives are not available the NIS considers indirect impacts due to water quality impacts could occur.

7.63 I have examined Co. Cork, Co. Galway, Co. Wexford, and Co. Donegal site-specific NPWS SPA conservation objective documents for the eight SCI species.

- Fulmar – Seven attributes are set out in the Beara Peninsula SPA document. Its diet includes fish. One of the attributes is 'prey biomass availability' which could be affected by a decrease in water quality.
- Cormorant – Seven attributes are set out in the Connemara Bog Complex SPA document. Its diet is fish. One of the attributes is 'prey biomass availability' which could be affected by a decrease in water quality.
- Shag – Six attributes are set out in the Saltee Islands SPA document. Its diet is fish. One of the attributes is 'prey biomass availability' which could be affected by a decrease in water quality.
- Herring gull – Only two attributes, population trend and distribution, are contained in the Lough Foyle SPA document. Its diet includes fish. Water quality is not referenced.
- Kittiwake – Six attributes are set out in the Saltee Islands SPA document. Its diet includes fish. One of the attributes is 'prey biomass availability' which could be affected by a decrease in water quality.
- Razorbill – Seven attributes are set out in the Saltee Islands SPA document. Its diet is mainly fish. One of the attributes is 'prey biomass availability' which could be affected by a decrease in water quality.
- Chough – Only two attributes, population trend and distribution, are contained in the Trawbeaga Bay SPA document. Water quality is not referenced. Chough does not feed on fish.

7.64 I did not find an SPA with site-specific objectives for peregrine. Notwithstanding, I note the Birdwatch Ireland website states that peregrine mainly feeds on other birds. Therefore, any water quality impact would have limited effect on this species.

7.65 I note that the NIS (page 19) has cited the six species above i.e. the eight SCI species excluding peregrine and chough, as being indirectly impacted 'if negative water quality impacts are to occur'. Having regard to the foregoing, I concur with the applicant.

Potential direct impacts

7.66 The NIS states that there are no direct impacts to SCI species. The proposed development comprises a replacement bridge outside the SPA boundary and 'no potential breeding sites will be impacted ...' I agree with the applicant.

Potential indirect impacts

7.67 The NIS describes potential indirect impacts as negative impacts on water quality. Given the potential for water quality to affect the prey biomass availability of six of the SCI species I consider this would be an indirect impact of the proposed development.

Mitigation Measures

7.68 Mitigation measures are set out in section 8 of the applicant's NIS. Relevant measures relate to ecological supervision and water quality impacts. These include, for example, employment of an on-site ECoW, no direct dewatering to the watercourse, and any refuelling of equipment or concrete washout a minimum 20 metres from the watercourse.

7.69 The provisions of paragraphs 7.54 and 7.55 of this inspector's report are also applicable to this SPA.

Residual effects / further analysis

7.70 In consideration of the outlined mitigation measures, I am satisfied that no residual impact is anticipated.

Potential in-combination effects

7.71 The NIS does not consider there would be in-combination effects and I concur with this.

NIS omissions

7.72 None noted.

Suggested related conditions

7.73 Given the relatively limited nature and scale of the proposed development, I do not consider any specific related conditions are necessary in addition to the mitigation measures proposed.

Integrity test

7.74 Following the implementation of mitigation, I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of West Donegal Coast SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment (AA) Conclusion

7.75 Having regard to the foregoing, I consider that it is reasonable to conclude on the basis of the information on the file, and other available information, which I consider adequate in order to carry out a Stage 2 AA, that the proposed development, individually or in combination with other plans and projects, would not adversely affect the integrity of the European site nos. 000190 and 004150, or any other European site, in view of the sites' conservation objectives.

8.0 Recommendation

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

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC),

- (b) the European Union (Birds and Natural Habitats) Regulations, 2011 (as amended),
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for Slieve Tooley / Tormore Island / Loughros Beg Bay SAC (site code 000190) and West Donegal Coast SPA (site code 004150),
- (e) the policies and objectives of the County Donegal Development Plan, 2018-2024 (as varied),
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Slieve Tooley / Tormore Island / Loughros Beg Bay SAC (site code 000190) and West Donegal Coast SPA (site code 004150) are the only European sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely Slieve Tooley / Tormore Island / Loughros Beg Bay SAC and West Donegal Coast SPA, in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate

assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

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

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

Proper Planning and Sustainable Development / Likely Effects on the Environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution or significantly adversely affect biodiversity in the area, would not be detrimental to the visual or landscape amenities of the area, would not adversely impact on the cultural, archaeological and built heritage of the area, would not interfere with the existing land uses in the area, and would improve the standard and safety of the public road. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required

in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

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

2. The mitigation measures outlined in the plans and particulars relating to the proposed development, including those set out in section 8 of the Natura Impact Statement, shall be implemented in full. Mitigation measures stating 'should' shall be read as 'shall' or 'will' etc. Prior to the commencement of development details of a time schedule for implementation of mitigation measures shall be prepared by the local authority and placed on file and retained as part of the public record.

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

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

Reason: In the interest of protecting the environment.

4. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river system shall be outlined and placed on file. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority, and relevant statutory agencies and the programme shall be implemented thereafter.

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

5. Plant and machinery used during the works shall be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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

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

Reason: In the interest of nature conservation and the protection of terrestrial and aquatic biodiversity.

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.

Anthony Kelly

Planning Inspector

17th August 2023