



An
Bord
Pleanála

Addendum to Inspector's Report ABP317353-23

Development	Ground floor level extension (72.2sqm) within the undercroft area to the rear (east) of the permitted and part constructed dwelling (beneath the permitted master bedroom and upper level external terrace), the provision of an extension to the entrance/lobby area to the front (west) elevation (6.3sqm), the omission of the permitted chimney, and associated elevational changes and internal alterations and permission for (1) construction of an external terrace on the northern elevation at first floor level (25.8sqm), addition of an external staircase to provide access from ground level to the permitted rear external terrace at first floor level, and all associated development works above and below ground and (2) omission of condition no. 3 attached to DCC reg. ref. 19/51842 (relating to the modification of the site entrance) and omission of condition no. 10 (a) attached to DCC reg. ref. 19/51842 (relating to the removal of materials)
Location	Lurgabrack, Hornhead, Dunfanaghy, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	23/50406
Applicant	Aoife Hanna
Type of Application	Retention permission and permission
Planning Authority Decision	Conditional grant
Type of Appeal	Third Party
Appellant	Olive Durning
Observers	None
Date of site inspection	5 th December 2023
Inspector	Trevor Rue

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1.0 Introduction

1.1. This addendum should be read in conjunction with my original report dated 27th December 2023. The report relates to an application for retention permission for extensions to a substantially completed dwelling and for permission for an external terrace and an external staircase.

1.2. In my report, I reached the following conclusions on issues raised in the appeal:

- The planning application is not invalid.
- The extant permission granted in 2020 under reference 19/51842 for a dwelling on the application site cannot be reviewed in the context of the present appeal. However, in view of the scale and layout of the proposed extensions, if the Board decides to approve the current application it would be prudent to apply an occupancy condition to the entire structure.
- The dwelling which has been constructed largely ignores the design principles set out in the County Development Plan. However, the proposed changes are consistent with the character and appearance of the building as approved and are not objectionable on design grounds.
- The impact on the appellant's property of the proposed changes to the dwelling is not of such significance as to warrant the withholding of planning permission.
- The existing entrance is safe and should remain unaltered in accordance with the site layout plan.

1.3. Condition 10 of the 2020 permission reads as follows:

- (a) All hardcore in and around the location of the polishing filter shall be removed and the applicant shall provide evidence as to where this material is to be disposed of with details of same shall be submitted for written agreement with the Planning Authority prior to commencement of development.*
- (b) A wastewater treatment system (Independently certified by IAB, BSI or ISO EN) suitable for a population equivalent of **6 No persons** shall be installed, operated and maintained in strict accordance with the supplier's instructions.*
- (c) Documentary evidence detailing a five-year maintenance contract between the applicant/owners and the suppliers of the wastewater treatment system shall be forwarded to the Planning Authority upon its installation.*

- (d) All effluent shall be conveyed from the development to the wastewater treatment system via pipework measuring 100 – 110mm in diameter, and shall achieve a minimum fall of 1:40 to 1:60 depending on the material used.
- (e) After removal of the hardcore, the soil polishing filter shall be built up in 300mm lifts from suitable soil and tested as described in Table 8.1 and Section 8.4 of the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (2009). The soil filter shall be constructed of suitable, lightly compacted, free-draining soils, ideally with a 'T' Value of between 3 and 30, in lifts of 300mm to achieve a depth of **at least 0.9m** (that may include 0.3m of in-situ material) depending on Groundwater Protection Response requirements.
- (f) The pump-fed soil polishing filter shall be at least **90 m2 in area** (based on 150L/person.day hydraulic loading rate). Pressure distribution pipes shall be 32mm in diameter with 4-6mm perforations drilled at 300mm centres facing downwards. Pipes shall be laid parallel at 600mm centres and joined in a continuous manner. The pipes shall be laid on 250mm depth of 8mm to 32mm crushed, washed stone, surrounded on sides and on top by 150mm depth of 8mm to 32mm crushed, washed stone. The distribution pipes shall be covered with a geotextile fabric (in accordance with EN ISO 10319) or similar prior to back filling, and then by a protecting topsoil layer of at least 300mm. Effluent from the wastewater treatment system shall be evenly distributed to each of the percolation/distribution pipes. Water mains, surface water pipes, access roads, driveways or paved areas shall not be located within the soil polishing filter. No percolation pipe shall exceed a maximum of **10 metres** in length.
- (g) No part of the treatment system or polishing filter shall be within:
- **4m** of the slope break
 - **10m** of any dwelling
 - **3m** of the boundary of the adjoining site
 - **4m** of the nearest road boundary
 - **10m** of the nearest stream or ditch
 - **3m** of the nearest trees
- (h) A gravel filled land drain shall be constructed **2m up-gradient** of the percolation area or polishing filter in order to protect the area from surface water run-off

from the higher ground on the site. This land drain shall connect to existing storm water drains.

(i) All work shall be supervised and certified by a competent person.

Reason: In the interests of order development and public health.

1.4. In my original report, I made the following findings in regard to public health and appropriate assessment under the European Union Habitats Directive (AA):

- There is no need to remove all hardcore in and around the location of the polishing filter as required by Condition 10(a). It is reasonable to keep the excavated bedding rock and bog material on site to be used for landscaping as shown on the site layout plan.
- The current application relies on the wastewater system that has been installed but no indication as to its existing capacity was provided. It could not be said with certainty therefore that the proposal poses no risk to public health.
- It was not clear from the layout plan how surface water would be kept separate from waste water. The pathway and destination of any potentially polluting discharges were not specified. The implications of any discharges from the Lurgabrack area into Dunfanaghy Bay (which is part of Sheephaven Bay) were not identified.
- Effects on the conservation objectives of nearby sites of European nature conservation importance (known as Natura 2000 sites) were not assessed. I did not consider it possible to screen out the requirement for a Natura impact statement (NIS) or an AA.

1.5. On 5th March 2024, the Board decided to defer consideration of the appeal and, in exercise of its power under Section 132 of the Planning and Development Act 2000, to issue a notice to the applicant regarding the following:

1. The applicant was required to provide details of:
 - the existing wastewater treatment system, and to confirm that it has capacity to serve the extension the subject of this application;
 - the surface water management on site.
2. The applicant was required to submit a screening report for AA.

1.6. The applicant responded to the notice on 12th April 2024 and, pursuant to Section 131, the Board requested the planning authority and the appellant to make submissions or

observations in relation to the response. Both parties submitted observations within the period specified by the Board.

- 1.7. On 25th July 2024, the Board decided to request me to prepare an addendum report including an updated assessment, updated AA and recommendation, having regard to the Section 132 notice, the applicant's response and the submissions received from all parties.

2.0 Applicant's Response to Section 132 Notice

- 2.1. The applicant's design and engineering expert carried out a visual inspection of the wastewater treatment system on 9th April 2024 and produced a site suitability assessment report. His findings may be summarised as follows:

- The existing treatment plant is about 3.25 metres long by 0.95 metres wide by 1.3 metres deep, giving it a capacity of about 4.01 cubic metres over three chambers. The system is certified to cater for a population equivalent (PE) of 6 but exceeds the volume required to cater for a PE of 10 and thus has the capacity to serve the proposed extension. He recommended that de-sludging be carried out once every six months instead of once a year to reduce the build up of sludge in the system and cater for the proposed PE of 7.
- The treatment system is followed by a polishing filter, which will need to be extended by 15 square metres in order to cater sufficiently for the dwelling as it now exists. There is sufficient area available to extend the polishing filter to 105 square metres and ground conditions are suitable.

- 2.2. The applicant's town planning agents said she would be happy to accept a condition that the polishing filter extension is implemented with three months of a grant of planning permission and prior to occupation of the dwelling.
- 2.3. Following consultation with an engineer and site manager, the agents also stated that the storm drainage for the dwelling house was connected to the existing on-site drainage system, which is discharged into waterway. All systems were designed to the requirements of Part H of the Second Schedule to the Building Regulations, which provides for the disposal of foul and surface water.

2.4. An AA screening report was prepared by environmental consultants. It incorporated an unaltered copy of the site layout drawing which had been submitted with the application. Its findings may be summarised as follows:

- Natura 2000 sites located within 15 kilometres of the application site were assessed to ascertain whether there is a source-pathway-receptor chain to the designated sites and they are within the likely zone of influence of the proposed development; and whether there is potential for significant adverse effects on the designated sites arising from the development in the absence of mitigation.
- Potential source-pathway-receptor links were identified to two Natura 2000 sites – the Horn Head and Rinclevan Special Area of Conservation (SAC) and the Horn Head to Fanad Head Special Protection Area (SPA).
- The Horn Head and Rinclevan SAC was designated for dunes of various kinds, low-lying grassy plains, standing waters with vegetation, snails, seals, petalworts and slender naiad plants. The conservation objective is to maintain or restore the favourable condition of these qualifying interests.
- The Horn Head to Fanad Head SPA was designated for fulmar, cormorant, shag, barnacle goose, peregrine, kittiwake, guillemot, razorbill, chough and Greenland white-fronted goose. The conservation objective is to maintain or restore the favourable condition of these bird species.
- The application site is about 290 metres from the nearest boundary of the SAC. No direct loss of habitat has occurred or will occur as a result of the development. The project is small in scale and land take has been minimal.
- The Northwest Donegal groundwater body has been assigned a status of “not at risk”. The status of the catchment was assigned as “good” in the Water Framework Directive groundwater monitoring programme (2016-2021).
- Surface water drains to the south toward the sea. An open drain enters the site on the northern boundary. It is piped through the site and discharges into an open watercourse along the southern site boundary. The unnamed watercourse follows the site access lane and discharges into Sheephaven Bay via a culvert. The drainage pathway is impeded as it flows through a variety of drainage channels.
- Potential effects on the SAC could have arisen from construction-stage runoff entering the pathway to the European site. The impeded pathway measures

about 330 metres and includes vegetated land, vegetated drains and artificial drains. The vegetated channels provide a form of flow control and filtration of runoff, reducing the volume of silt contained in discharged water.

- Having regard to the nature of the source-pathway-receptor chain and the nature, scale and location of the development, it is not envisaged that there have been or will be any water quality impacts on the SAC arising from the development, such as changes in habitat distribution, physical processes, vegetation structure and community composition. This finding is made without reliance on mitigation measures designed to avoid or reduce potential impacts.
- The application site is about 480 metres from the nearest boundary of the SPA. No direct impact such as loss of supporting habitat has occurred or will occur as a result of the development. There is no pathway for degradation of water resource quality within the SPA.
- The construction period did not and will not give rise to excessive nuisance such as noise, vibrations and emissions. Basic noise modelling of sound levels from proposed and historical construction activity associated with the project was carried out. It assumed the worst-case scenario for noise levels and no sound barrier attenuation. Without mitigation, maximum noise levels of 16.3 decibels were predicted at the boundaries of the SPA, which is comparable to the rustling of leaves. This is not expected to disturb any of the SPA's qualifying interests.
- Having regard to the nature of the source-pathway-receptor chain and the nature, scale and location of the development, significant effects on the SPA can be excluded at this stage of screening.
- The Donegal County Development Plan 2018-2024 and the Draft Donegal County Development Plan 2024-2030 were reviewed to assess any cumulative impact on European sites in combination with the development. Particular reference was made to policies and objectives that relate to the Natura 2000 network and other natural heritage interests. No potential was identified for cumulative impacts on European designated sites or protected species.
- A search was conducted for projects which within the last five years were completed, or approved but not completed, or for which a planning application was submitted. Five projects relating to sites within about 450 metres of the application site were considered. Three of the applications were accompanied

by NISs that found no likelihood of significant effects. In the other two cases, the planning authority deemed that an AA was not required. None of these projects was likely, therefore, to combine with the applicant's development to cumulate in adverse effects on European sites.

- The applicant's project, individually or in combination with other plans or projects, has not had, and will not have, any significant adverse effects on the integrity of any European site. It has not altered and will not alter the structure or function of any Natura 2000 site or impact negatively on the conservation objectives of any qualifying interest or any special conservation interest therein.

3.0 Observations by the Planning Authority

- 3.1. A Senior Executive Planner of the Council advised that the County Development Plan 2024-2030 was adopted on 26th June 2024 and noted that the relevant biodiversity and habitat policies from the draft Plan considered in the AA screening report were unaltered in the newly adopted Plan. The authority had no additional observations.

4.0 Observations by the Third Party Appellant

- 4.1. The following points were made on behalf of the appellant:

- The report confirms that there is a hydrological pathway from the application site to the SAC as suggested in the appellant's previous evidence. This was not revealed in the planning application or in the planning authority's deliberation. It is difficult to conclude that, should planning permission be granted, due care and attention would be exercised by both the applicant and the authority, to ensure nothing would enter the SAC via the pathway that would impact negatively on it.
- The report claims that vegetation provides filtration and controls flow on the hydrological pathway and reduces the volume of silt in the outflow water. However, the applicant does not own the entire length of the stream and has no control over what happens to it and whether it will remain vegetated.
- In assessing the cumulative impact of the proposed development along with approved projects in the vicinity of the application site, the report relies on determinations by the planning authority that AAs were not required for any of

those projects. Such determinations cannot be relied on as they were not made by qualified persons as required by regulation. The Planning Regulator has made clear that assessments must be made by competent and qualified persons. None of Donegal County Council's planners has the qualifications necessary to deal competently with screening reports or NISs. Their assessments would not be sustained in any judicial review.

- Although the applicant indicates that she is happy to accept a condition requiring the polishing filter to be extended, the appellant has difficulty in accepting that any conditions would be complied with. The applicant has extended her house beyond the footprint of the extension proposed in her application and further intruded into the appellant's private space. She has brazenly ignored warning letters and an enforcement notice and the Council has stood idly by. The applicant is fully aware of how inefficient the Council has been in respect of enforcement. .

5.0 Assessment

The New Development Plan

- 5.1. When making its decision of this appeal, the Board is required to have regard to the provisions of the County Donegal Development Plan 2024-2030, most of which came into effect on 26th June 2024. I am therefore obliged to consider whether any of those provisions materially affects any of the conclusions I reached in my original report.
- 5.2. Relevant provisions of the 2018-2024 Development Plan are set out in Paragraphs 5.1.1 to 5.1.5 of my original report and the following updates are of note:
 - Whereas the application site was included in a designated Stronger Rural Area in the County Donegal Development Plan 2018-2024, it is now in a designated Area Under Holiday Home Pressure (see Map 6.3.1). Policy RH-P-2 of the new Plan is to consider proposals for new one-off rural housing within such areas from applicants who can provide evidence of a demonstrable economic or social need. It is stated that new holiday homes will not be permitted in these areas. This policy is broadly similar to Policy RH-P-3 of the previous Plan, which applied to Stronger Rural Areas.

- Map 11.1 of the new Plan indicates that the site is in an Area of Especially High Scenic Amenity. This represents no change from the 2018-2024 Plan. Policy L-P-1, which restricts development in such areas, is very similar in wording to Policy NH-P-6 of the 2018-2024 Plan.
- Policy RH-P-9 of the new Plan states that proposals for individual dwellings shall be subject to the application of best practice as set out in the Council's Rural Housing Location Siting and Design Guide. This guide, now presented as a standalone document, reproduces Appendix 4 of the 2018-2024 Plan.
- Table 16.5 of the new Plan sets out standard vision lines at accesses to non-national public rural roads outside 60 kilometre per hour speed limit zones. It replicates the contents of Table 3 in Appendix 3 to the 2018-2024 Plan.

5.4. The extant 2020 permission remains a key consideration in this appeal. I am satisfied that none of the provisions of the new Plan alters any of the conclusions listed in Paragraph 1.2 above.

Waste Water Treatment

- 5.5. Appendix D to the applicant's site suitability assessment report is titled "Details for Percolation Trenches / Polishing Filter". It contains two illustrations copied from the now-replaced 2009 Environmental Protection Agency (EPA) Code of Practice for wastewater treatment and disposal systems serving single houses with a PE of ≤ 10 . The illustrations are generic in nature. The report contains no drawings illustrating the layout and dimensions of the actual polishing filter system that has been installed at the application site or the manner in which it is proposed to modify it.
- 5.6. It is disappointing that the Council's observations on the applicant's response to the Section 132 notice do not include comments from its Environmental Health Officer (EHO). The EHO carried out an inspection and commented extensively on the previous application 19/51842. His comments formed the basis for Condition 10 of the extant permission, reproduced in Paragraph 1.3 above. It would have been helpful to know the EHO's views on the proposal to modify the wastewater treatment system.
- 5.7. Section 7.1.1 of the EPA's current (2021) Code of Practice states that the septic tank design capacity should be calculated from the formula $C = (150 \times PE) + 2000$, where C is the design capacity of the tank (in litres) and PE is the design population

equivalent. The capacity of a septic tank to serve a PE of 7 is therefore 3050 litres or 3.5 cubic metres. A septic tank with a capacity of 4 cubic metres would cater adequately for the proposed development.

- 5.8. A de-sludging frequency of once a year would be consistent with Table 12.2 of the 2021 Code of Practice. More frequent de-sludging could be provided for in a maintenance contract between the applicant and the suppliers of the system.
- 5.9. Table 10.1 of the Code of Practice indicates that for a percolation value between 21 and 40, a secondary treatment system and soil polishing filter requires a surface area of 15 square metres per person. In this instance, the percolation value has been assessed as 37.22 and the required surface area is therefore 105 square metres.
- 5.10. The applicant's design and engineering expert asserts that there is sufficient area available to extend the polishing filter by 15 square metres and that ground conditions are suitable. However, it is evident from Chapter 8 of the EPS's current Code of Practice and Condition 10 (e) to (g) of the 2020 permission that the location, design and construction of filtration systems receiving septic tank effluent involve technically complex considerations. The efficacy of this proposal cannot be taken for granted in the absence of proper plans and specifications. A condition requiring implementation of an insufficiently defined polishing filter extension within a stated period would not ensure satisfactory treatment of effluent prior to its discharge into groundwater.

Surface Water Management

- 5.11. It is indicated on the application form that surface water disposal is by way of a soak pit and not by way of a public watercourse sewer/drain. Information has now been provided at second hand from an engineer and site manager that storm drainage for the dwelling house is connected to the existing on-site drainage system, which is discharged into waterway. It is not clear whether this refers only to drainage from impermeable surfaces such as the building itself and the driveway.
- 5.12. The site layout drawing is difficult to interpret. It does not show the location of any soak pits, storm drains or points of discharge into a waterway or waterways. It does not identify measures to protect the percolation area and polishing filter from surface water runoff from higher ground within the site. The need for such safeguarding was highlighted in Condition 10(h) of the 2020 permission.

Appropriate Assessment

5.13. In my opinion, the following legal principles are important in this appeal:

- The competent authority (in this case, the Board) must determine that an AA of a proposed development is required if it cannot be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will have a significant effect on a European site (Section 177U(4) of the Planning and Development Act 2000, as amended).
- All aspects of the project which can, by themselves or in combination with other plans or projects, affect the site's conservation objectives must be identified in the light of the best scientific knowledge in the field (see the judgement of the European Court of Justice in *Waddenzee* (C-127/02)).
- In making an AA screening determination, it is not appropriate to take account of mitigation measures included wholly or partly to avoid or reduce harmful impacts of the project on the European site (see the judgement of the European Court of Justice in *People Over Wind* (C-323/17)).
- Retention permission may not be sought for a development that requires an AA (Section 34(12) of the 2000 Act).

5.14. There is no statutory requirement for officials involved in AA screening to have specific scientific qualifications. The Practice Note "Appropriate Assessment Screening for Development Management" published by the Office of the Planning Regulator states at Page 5 that in the vast majority of cases the information provided by the applicant (including the project description) and publicly available information in relation to the European sites in question should provide a sufficient level of objective scientific information to allow the planning authority to make an informed decision on screening.

5.15. The site layout drawing indicates that the probable direction of groundwater flow is towards the west south west. If that is correct, it is likely that groundwater into which the existing wastewater treatment system discharges flows into the Horn Head and Rinclevan SAC. As Figure 4.2 of the AA screening report shows, the SAC lies about 350 metres in that direction from the application site.

5.16. The application as submitted proposed additional bedroom accommodation but did not entail a commensurate upgrade to the wastewater treatment system. The

applicant's design and engineering expert has implicitly accepted that the existing system does not cater sufficiently for the dwelling as it now exists. An extension to the polishing filter (not adequately illustrated) is now proposed in order to avoid harmful discharges from the development into groundwater and thence potentially into the SAC. It seems to me that this is a mitigation measure which, according to case law, it is not appropriate to take into account at AA screening stage. In the absence of a suitable upgrade to the existing wastewater treatment system, the possibility of negative impacts on groundwater within the SAC cannot be ruled out.

- 5.17. The AA screening report concedes that potential impacts on the SAC may have arisen at construction stage due to runoff entering the drainage pathway from the application site to the designated site. It is conceivable that runoff may have been laden with sediments or contaminated by silt, debris and/or hydrocarbons. Future polluted runoff could emanate from further construction work to complete the dwelling and modify the wastewater treatment system; and, when the dwelling is occupied, from activities such as vehicle washing or accidents such as spillage from bins or other receptacles.
- 5.18. There is no mention in the AA screening report of the presence of silt fencing or attenuation ponds at construction stage or of existing bypass separators or interceptor being units to remove potentially polluted runoff prior to discharge into the watercourse. Instead, the report places reliance on vegetated channels to provide a form of flow control and filtration. There is no quantification of the extent to which these channels have been or will be effective in preventing polluted runoff entering the SAC. As the appellant's agent pointed out, the applicant does not own the entire length of the stream and has cannot guarantee that it will remain vegetated. In the absence of evidence of tried and tested measures to deal with polluted runoff, the possibility of negative impacts on the SAC cannot be ruled out.
- 5.19 Inadequately filtered wastewater and contaminated runoff could cause a change in the chemical status of the SAC and result in a decrease in water quality, clarity and oxygen content. A change in soil chemistry could lead to altered plant growth and species composition in a manner that reduces the biodiversity value of the designated site. It seems to me that the Board has not been furnished with objective information such as would enable it to exclude the possibility of the proposed development having a significant adverse effect on the conservation objective to maintain or restore the favourable condition of the SAC's qualifying interests.

- 5.20. In regard to the Horn Head to Fanad Head SPA, I accept the conclusions of the AA screening report concerning the absence of a pathway for degradation of water quality within the designated site; the absence of direct impacts such as loss of supporting habitat; and the absence of excessive noise at construction stage. It would have been helpful for the sake of completeness had the report also discussed the potential impacts of dust and lighting at construction stage. These factors were considered in the NIS prepared by the same environmental consultants for planning application 22/50399. (That application is listed in Table 5.4 of the screening report.) However, I am satisfied that, having regard to the nature, scale and location of the development; the distance between the application site and the SPA; and the spatial extent of the SPA, there is no realistic possibility of the development having any lasting impact on the population density of protected bird species in the SPA.
- 5.21. I am satisfied that the County Donegal Development Plan 2024-2030 is unlikely to give rise to any cumulative impacts on the SAC when combined with the proposed development. The Plan is a high-level strategic document which sets out a vision for the sustainable future development of the county, together with objectives and policies designed to achieve this. It was subjected to AA. In a statement published in July 2024, Donegal County Council as competent authority was satisfied that the Plan will not result in adverse effects on the integrity of any European site in view of their conservation objectives, either alone or in combination with other plans.
- 5.22. I accept the conclusion of the AA screening report that none of the projects listed in Table 5.4 of the report is likely to combine with the applicant's development to cumulate in adverse effects on European sites. No evidence has been presented to indicate that any of the determinations by the planning authority that AAs were not required for those projects was legally challenged and the determinations must therefore be presumed to be valid.
- 5.23. My overall conclusions on the need for AA are as follows:
- It **can** be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will have a significant effect on the Horn Head to Fanad Head SPA.
 - It **cannot** be excluded, on the basis of objective information, that the development will have a significant adverse effect on the Horn Head and

Rinclevan SAC, having regard to its conservation objectives, by reason of inadequately filtered wastewater and contaminated runoff.

- 5.24. If the Board agrees with the second of these conclusions, then it is precluded from further considering the application. Section 34(12) of the Planning and Development Act 2000, as amended, states that a planning authority shall refuse to consider an application to retain unauthorised development of land where it decides that an AA was or is required. Section 37(9), which came into operation on 16th December 2023, states that where the Board refuses under Section 34(12), as applied by Section 37(7), to consider an application on appeal, it shall give the reasons for the refusal to the person who made the appeal; the application on appeal shall be deemed to have been withdrawn by the applicant for permission; and the refusal shall operate to annul the decision of the planning authority as from the time when that decision was given.
- 5.25. Should the Board refuse to consider the current development proposal, the applicant would have the option of pursuing an application for substitute consent and preparing a remedial NIS, using the streamlined procedures recently introduced by way of amendments to Part XA of the Planning and Development Act 2000.

6.0 Recommendation

- 6.1. I recommend the Board to refuse to consider the application and thereby to annul the decision of the planning authority to grant permission.

7.0 Reasons and Considerations

- 7.1. It cannot be excluded, on the basis of objective information, that the development will have a significant adverse effect on the Horn Head and Rinclevan Special Area of Conservation, having regard to its conservation objectives, by reason of inadequately filtered wastewater and contaminated runoff. An appropriate assessment is therefore required under Section 177U(4) of the Planning and Development Act 2000, as amended. Because the application seeks permission for the retention of unauthorised development, the Board is precluded from considering the application by virtue of Section 34(12) and Section 37(7) of the Act.

I confirm that this addendum to my 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.



TREVOR A RUE

Planning Inspector

28th August 2024