



An
Bord
Pleanála

Inspector's Report ABP-317709-23

Development	A period of 10 years for development consisting of the following: (1) Demolition of 2 detached houses (2) Construction of 73 houses. This application is accompanied by a Natura Impact Statement (NIS).
Location	Church Road, Magheracar, Bundoran, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2251950
Applicant(s)	McHenry Asset Holdings Limited.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Mark Picken.
Observer(s)	N/A.
Date of Site Inspection	12 th of October 2023.

Inspector

Stephanie Farrington

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1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 3.7ha, is located in the townland of Magheracar, Church Road, Bundoran. The site primarily comprises relatively flat land in agricultural use. The site is occupied by 2 no. dwellings including a property which fronts onto Church Road and a centrally located cottage and farm buildings. Access to the site is currently provided via an existing laneway from Church Road. Levels on site range from c.22m to the south to 12m to the north (as illustrated on the Existing Site Layout Map, Drawing no. McH/02).
- 1.2. Existing development within the vicinity of the site comprises residential development to the west and south, Bundoran town centre to the north and further agricultural lands to the east.

2.0 Proposed Development

- 2.1. The proposed development, as described within the public notices, relates to permission for a duration of 10 years for the following development: (1) demolition of 2 no. detached dwelling houses on site along with associated sheds (2) construction of 73 no. dwelling houses (3) all associated site works on site including provision of 2 no. vehicular entrances to the site from Church Road.
- 2.2. Revisions to the layout of the development were made in response to Donegal County Council's request for further information. The proposed number of dwellings were reduced from 73 to 68.
- 2.3. Table 1 below provides a summary of key development statistics:

Table 1: Key Development Statistics	
Site Area	3.7 ha gross
No. of Units	68 no. units
Unit type	68 no. houses
Unit mix	7 no. 4 bed detached dormer 140sqm- House Type 1 5 no. 3 bed detached 138.5sqm – House Type 2 1 no. 2 bed detached 79.3sqm - House Type 3 1 no. 4 bed detached 164sqm – House Type 4

	3 no. 2 bed terraced 88sqm – House Type 5 7 no. 4 bed detached 134sqm – House Type 6 30 no. 3 bed semi-detached 102sqm- House Type 7 14 no. 3 bed detached 98 & 102sqm – House Type 8
Density	18.3 units per ha.
Height	6.8m to 8.9m
Open Space	6,600 sq.m. 18% of overall site area
Car Parking	2 no. in curtilage spaces per unit

2.4. The development includes connection to existing water and wastewater services.

2.5. The following documentation was submitted in conjunction with the application.

- Application Cover Letter
- Completed Public Notices and Application Form
- Architectural and Engineering Drawings
- Natura Impact Statement
- Drainage Design Report
- Stage 1 & 2 Road Safety Audit

2.6. The following documentation was submitted in response to Donegal County Council's request for further information:

- FI Response Cover Letter
- Revised Architectural and Engineering Drawings
- Landscaping Plan
- Stage 1 / 2 Road Safety Audit
- Drainage Design Report
- Property Registration Details

3.0 Planning Authority Decision

3.1. Decision

Donegal County Council issued a notification of decision to grant permission for the development subject to 32 no. conditions. The following conditions attached to the decision are of note:

Condition no. 3:

Prior to the commencement of development, the applicant shall submit revised plans detailing:

- (a) the omission of the turning head adjacent to house no. 6 and replacement with suitable planting between houses nos. 5 and 6. Turning shall thereafter take place within the cul de sac internal roadways.
- (b) relocation of the turning head opposite house no. 22 to a location adjacent to house no. 19.
- (c) revised proposals for resurfacing of the home zone areas in consultation with the Area Roads Engineer
- (d) revised plans detailing a roadway within the home zones to be level with the entrance to the dwelling houses and areas of open space.
- (e) Development shall not commence without the prior written agreement of the Planning Authority and shall there after only be authorised to commence in accordance with the agreed plans.

Reason: In the interests of orderly development and pedestrian safety.

Condition 4:

(a) Prior to the commencement of development revised plans drawn to a scale of not less than 1:100 and 1:500 detailing:

- Details of external finishes to the dwellings including the omission of any brick detail and replacement with a coloured render or similar.
- Amendment to house type 3 to provide for a level ridge height across the dwelling.

(b) Prior to the commencement of development revised plans drawn to a scale not less than 1:100 and 1:500 shall be submitted to the Planning Authority for written

agreement in accordance with Condition No. 4 (a). The development shall thereafter proceed in strict conformity with the agreed plans.

Reason: To define the terms of the permission, protect the amenities of the area and ensure orderly development.

Condition 6:

Prior to commencement of development, permanent visibility splays of 45 metres shall be provided in each direction to the nearside road edge at a point 2.4m metres back from road edge at location of vehicular entrance. Visibility in the vertical plane shall be measured from a driver's eye- height of 1.05 metres and 2 metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision Splays to be calculated and provided as per Figure 2 of Appendix 3 (Development Guidelines and Technical Standards) of Part B of the County Donegal Development Plan 2018-2024 (as varied).

Reason: In the interests of traffic safety

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report (24/01/2023)

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

- The application site is located within an area zoned as a Residential Phase 1 within the Development Plan. The principle of the development is deemed acceptable subject to adherence to all other relevant development management criteria.
- In terms of siting and design, the report outlines that the provision of public open space is not appropriate, the roadways are not in accordance with DMURS standards, and that the layout as submitted is traffic led (with long straight internal roads and few crossing points) and does not provide pedestrian priority.

- The planner's report outlines that the proposed density is 19.7 units/ per ha. The density is deemed to be low in accordance with recommended guidance (20-35 dwellings per ha).
- In terms of dwelling design, the report outlines that House Type 5 is not reflective of the character of the area. The report outlines that there is a lack of dwelling mix including 1 and 2 bed units.
- The report recommends revisions to the layout to provide adequate separation distance between existing and proposed dwellings. It is furthermore stated that the application is lacking in respect of boundary treatment.
- The report raises concern in relation to the siting of the existing dwelling at Newtown Road and existing 2m retaining wall and potential impact on the amenity of the dwellings proposed to the north of the site. The report raises concern in relation to overlooking from proposed dwellings 21-25.
- The report outlines that the proposed layout is considered to provide a negative impact on residential amenity for both existing and prospective residents.
- The report raises concern in relation to the siting of the proposed public open space on grounds of accessibility, usability and lack of overlooking from the proposed houses. It is stated that a comprehensive redesign of open space is required.
- The report cross refers to the internal reports from the Area Road's Engineer and Road Design Office which recommend further information.
- The report recommends consultation with Irish Water.
- The report concludes that the layout does not offer a contemporary standard of layout or house type that is in accordance with the design manual or DMURS guidelines.
- The report recommends a request for further information in respect of the following:
 - (1) Submission of a phasing plan for the development.

- (2) Consultation with Irish Water.
- (3) Confirmation of ownership of the site.
- (4) Revised layout in accordance with DMURS, to negate against overlooking and relocation of open space.
- (5) Revised Layout which includes a greater dwelling mix and revised house type and includes details of boundary treatment.
- (6) Compliance with DMURS, autotrack drawings.
- (7) Revised drainage design details.
- (8) Drawing illustrating sightlines at proposed site entrances.
- (9) Details of public lighting.
- (10) Landscaping Plan.
- (11) Details of fill requirements and cross-sectional drawings illustrating proposed levels.

Planner's Report on Further Information (04/07/2023)

The planner's report prepared in respect of the applicant's FI response provides a summary and assessment of the applicant's FI response.

The overall assessment concludes that *"there are a number of outstanding issues that can be agreed through the submission of revised drawings and agreed in writing prior to the commencement of development. However, the overall scheme is more acceptable and includes a range of housing to meet all needs; functional open space; more emphasis placed on accessibility and pedestrian priority"*.

The report recommends a grant of permission subject to condition in accordance with the following reasons and considerations:

" Having regard to the location of the subject site within Bundoran, outside of and removed from any sensitive designations, to the nature and scale of the development and the policies of the current development plan, it is considered that subject to compliance with the conditions below, the proposed development would not injure the amenities of the area, would not be prejudicial to public health and would not endanger public safety by reason of a traffic hazard. Accordingly, it is

considered that the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area”.

3.2.2. Other Technical Reports

Road Design Office (04/01/2023)

The report recommends a request for further information in relation to compliance with DMURS, submission of a Traffic Impact Assessment and Road Safety Audit Stage 1&2, auto track drawings, public lighting details, flood risk assessment and drainage design details.

Roads Department (17/01/2023)

The report recommends a request for further information in relation to public lighting design, junction design and details of drainage proposals.

Building Control (21/12/2022)

No objection subject to condition.

Appropriate Assessment Screening (04/07/2023)

Donegal County Council's Screening Assessment concludes the following:

“Further to an assessment of the proposed development and on the basis of the following principal reasons:

- *The location of the development in the urban area on fully serviced lands,*
- *The fact that the development would not result in any direct loss or fragmentation of habitat from the aforementioned Natura 2000 site.*

“The Planning Authority is of the opinion that the proposed development would not have a significant effect on the Donegal Bay Special Protection Area (Site Code: 004151)”.

Road Design Office (22/06/2023)

- The report recommends a grant of permission subject to condition which relates to achievement of visibility splays at the proposed site entrance in accordance with DMMURS.

Roads Department (30/06/2023)

- No objection subject to condition.

3.3. Prescribed Bodies

Department of Housing Local Government and Heritage (23rd of January 2023)

The observation refers to the hydrological connection of the site to the Donegal Bay SPA and the NIS submitted in conjunction with the application. The report recommends that the mitigation measures set out in the NIS should be carried out. The report recommends the submission of a lighting plan and landscaping plan for the development and undertaking of a bat survey and invasive species survey. It is recommended that landscaping proposal should include local species and that it should seeks to retain existing hedgerows, trees and uncultivated vegetation.

Department of Housing Local Government and Heritage (17/01/2023)

Recommends that an Archaeological Impact Assessment is undertaken in respect of the development.

Uisce Éireann (22nd of May 2023)

The correspondence outlines that Uisce Éireann have a capital works project to install a new watermain on Church Road which will result in the existing watermain which runs through the application being decommissioned. The report outlines that the proposal can be facilitated subject to the development taking place after the capital works project.

3.4. Third Party Observations

1 no. third party submission was received during the public consultation period from Mark Picken, Church Road. The issues raised reflect those within the grounds of appeal.

4.0 Planning History

Appeal Site

None.

Site to the East

Permission refused by Donegal County Council (PA Ref 17/50274) and An Bord Pleanála (248467) in November 2017 for construction of a dwelling on in accordance with the following reasons and considerations:

The proposed development of a single dwellinghouse on the site would, by virtue of its location, layout and size, compromise the coherent development of the lands zoned for phase 2 residential development in the Bundoran and Environs Development Plan 2009-2015 (as extended). The proposed development would, therefore, materially contravene the zoning of the site and policy H5 of the development plan and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

Donegal County Development Plan 2018-2024

Core Strategy – Chapter 2

- 5.1.1. Table 2A.3 of the Development Plan sets out The Towns of the Settlement Structure. Bundoran is designated as a Layer 2 Strategic Town within the settlement hierarchy. Policy CS-P-2 is of relevance as follows:

- Policy CS-P-2: *It is the policy of the Council that proposals for development in Buncrana and Bundoran shall be considered in the light of all relevant material planning considerations, relevant policies of the County Development Plan including Part C Chapters 12 and 13, 'Objectives and Policies of Buncrana' and 'Objectives and Policies of Bundoran' and other regional and national guidance/policy, relevant environmental designations and particularly Map 13.1A (Buncrana Land Use Zoning) and Map 14.1 (Bundoran Land Use Zoning).*

- 5.1.2. Table 2A.6 of the Plan sets out The Core Strategy Table. This identifies a requirement for 140 housing units in Bundoran on the basis of a population allocation of 344 no. persons to 2024 (estimated population of the town of 2,108 by 2016 and

an estimated population of 2,485 by 2024). The table identifies the requirement of 17 ha of land within the town on the basis of an assumed density of 12 units per ha.

Chapter 6 – Housing

5.1.3. The following policies are of relevance for urban housing:

- 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-8: It is a policy of the Council that new residential developments shall be laid out and orientated in order to make use of the landscape characteristics including local features and vistas, and maximise opportunities presented from passive solar gain. Development adjacent to amenity areas shall be orientated to face onto the amenity areas and provide maximum informal surveillance. Locating amenity areas to the rear of properties will not be permitted.
- UB-P-9: It is a policy of the Council that direct pedestrian and cycle linkages shall be provided within proposals for new residential developments so as to interconnect with central amenity areas, adjoining neighbourhood

developments and neighbourhood facilities subject to compliance with Article 6 of the Habitats Directive. Linkages shall be provided in addition to the primary access to the development and shall be designed to maximise passive surveillance from surrounding properties, be well lit and maintained and the materials and finish shall be of a high quality. Linkages that follow indirect routes and/or to the rear of properties shall normally not be considered acceptable.

- 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.
- UB-P-13: Multiple residential developments shall, in general: (a) On greenfield sites, include a minimum of 15% of the overall site area reserved as public amenity area;

Chapter 7 – The Natural and Built Environment

- 5.1.4. The appeal site is located within an area designated as “High Scenic Amenity” within Map 7.1.1 of the Donegal County Development Plan. The Plan outlines that Areas of High Scenic Amenity are landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element

of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.

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

Chapter 11- Community Culture and the Gaeltacht

- 5.1.6. The following objective is of relevance.

CCG-O-5: To preserve, improve and extend amenities and recreational amenities of the county including:

- Maintaining and enhancing our existing playgrounds, parks, and recreational spaces and providing new recreational amenities at sustainable locations.*
- Improving the urban environment of our Towns and Villages including through the Council's town and village renewal programme.*

Part B – Appendix C

- 5.1.7. Appendix C sets out technical standards for developments within the County.

Part C – Chapter 14 – Bundoran

- 5.1.8. Part C of the Donegal County Development Plan sets out objectives and policies in respect of towns. Chapter 14 relates to Bundoran. Bundoran is identified as a Layer 2A settlement within the County Settlement Strategy. It is identified as a Strategic Town serving a Special Economic Function relating to its strong role as a centre for tourism. The appeal site is located within the settlement boundary of the town.
- 5.1.9. Section 14.1 of the Plan identifies key areas for development in Bundoran. These include delivery of key housing lands. Section 14.4 relates to Housing in Bundoran, this outlines that the Council's strategy in relation to housing in Bundoran is to

ensure that adequate provision is made to accommodate the projected growth in persons of an additional 377 persons by 2024.

5.1.10. The Plan outlines that Phase 1 residential areas are generally focussed in the east of the Plan area, on lands proximate to existing established residential areas and are therefore sequential extensions of the existing fabric. In addition, the lands identified as Phase 1 can either be readily serviced via existing or planned infrastructure or are located so as to be integral to the appropriate strategic provision of infrastructural services that will assist in the facilitation of development over future life cycles of the Plan.

5.1.11. The following policies are of relevance:

- BD-H-P-1: It is a policy of the Council that new housing development in Bundoran shall be guided to those lands identified as 'Residential-Phase 1' on Map 14.1: 'Bundoran Land Use Zoning Map' that accompanies this part of the Plan'. In addition, consideration may be given to appropriate proposals for housing development at other locations as follows: (a) Within 'Established Development.' (b) Within the area identified as 'town centre' (c) Within an entire existing unfinished housing development where the entire development has commenced, or, within that part of an existing unfinished housing development where only part of the development has commenced. The number of residential units that may be permitted shall not exceed the number of units permitted within the unfinished development, or part thereof as applicable. All proposals shall be subject to all relevant material planning considerations, relevant policies of the Plan, other regional and National guidance and relevant environmental designations.
- BD-H-P-2: It is a policy of the Council to ensure the adequate supply of future strategic landbank for the purposes of housing beyond the life of the Plan through the identification of circa 72 hectares of lands as 'Residential- Phase 2.' The Council shall examine and manage the appropriate release of 'Residential- Phase 2' lands on the basis of a clear and transparent evidenced led approach that will involve annual assessment of the uptake of land zoned 'Residential- Phase 1' and having regard to relevant environmental designations. Release of 'Residential- Phase 2' lands shall only occur through

a review or variation of the Development Plan or through the preparation of a Local Area Plan.

- BD-H-P-4: It is the policy of the Council to consider proposals relating to residential development within areas identified as 'Established Development' on Map 14.1: 'Bundoran Land Use Zoning Map' that accompanies this part of the Plan, where it can be demonstrated that the development can integrate appropriately with the surrounding area, that the proposals is in accordance with the proper planning and sustainable development of the area and in compliance with all other policies of this Plan including the 'Land use Zoning Objective' set out in section.

Zoning

5.1.12. Map 14.1 of the Development Plan sets out a zoning map for Bundoran. The appeal site is subject to 4 no. separate zoning objectives as detailed as follows:

- The appeal site is primarily zoned for Residential Phase 1 purposes within the Development Plan with an objective *"to reserve land primarily for residential development"*.
- The existing dwellings on site including the centrally located cottage and dwelling fronting Church Road are zoned for Established Development purposes with an objective *"To conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement subject to all relevant material planning considerations, all the policies of this Plan, relevant National/ regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area"*.
- The existing field to the east of the existing cottage on site is zoned for Residential Phase 2 purposes *"To reserve land for residential development as a long-term strategic land bank"*.
- The field to the east of the site is zoned for Recreational/ Leisure purposes with an objective *"To make provision for new and maintain existing recreation facilities"*.

- 5.1.13. There is no zoning matrix included in the Plan. The Plan outlines that *“applications may be granted where the Planning Authority considers that the proposed use or development would comply with the zoning objective of the area and would otherwise comply with the policies of the Plan and would be in accordance with the proper planning and sustainable development of the area”*.

Other Mapped Objectives

- 5.1.14. The zoning map illustrates a watermain traversing the site. The zoning map illustrates a Proposed Road Alignments objective to the north of the site.
- 5.1.15. Section 14.3.1.1 relates to Roads Objectives for Bundoran. The plan refers to Access to Backlands and Zoned Land by means of a Distributor Link Road. The Plan outlines that the undeveloped backlands, located to the south of the town lie in close proximity to the town centre and local services with a substantial portion falling within the existing wastewater catchment area. The Council will take a holistic approach to the short and long term development of this area and reserve a strategic link route to ensure adequate access is provided and maintained to this area throughout the life of the Plan.
- 5.1.16. The Plan outlines that the optimal location for the distributor road shall be determined through the undertaking of a detailed road design scheme. Until such a time as a scheme has been prepared and the route incorporated into the Plan, the Council will reserve a 25m indicative corridor that makes provision for a 7m wide carriageway adjoining 4m wide footpaths incorporating cycle paths with an additional 5m to either side to allow for future expansion/maintenance/provision of public transport corridor. Proposed Indicative Road Alignments are highlighted on Map 14.1: ‘Bundoran Land Use Zoning Map’ that accompanies this part of the Plan. Applications for development of lands affected by proposed indicative alignments will be required to demonstrate how they facilitate permeability and linkages between neighbouring landholdings. Developments which prejudice such linkages will be necessarily refused as contrary to the proper planning and sustainable development of the area.
- 5.1.17. The following policies of the Plan are of relevance:

- BD-T-P-4: Development will be regulated in the suggested ‘phased’ manner and within the by-pass in order to consolidate development within the town in a sustainable manner.
- BD-T-P-5: To safeguard the route for the development of a distributor link road as identified on the Land-use Zoning Map to provide access to new development lands within the by-pass. Proposals that would interfere with or obstruct the detailed route of the distributor road and any associated link roads shall not be permitted.
- BD-T-P-6: In the absence of a detailed design scheme, the Council shall consider the construction of the roadway by private developers as the land is developed. The Roadway shall follow the route of the indicative road as indicated on Map 14.1: ‘Bundoran Land Use Zoning Map’ that accompanies this part of the Plan. In the case of the lands south and west of Drumacrin Road the sole vehicular access shall be taken from this indicative road.
- BD-T-P-7: Applications for development of lands affected by proposed indicative alignments will be required to demonstrate how they facilitate permeability and linkages between neighbouring landholdings. Developments which prejudice such linkages will be necessarily refused as contrary to the proper and orderly planning of the Plan area.
- BD-T-P-8: All new development within the wider area south of the town will be required to provide contributions for the provision of the distributor link, in accordance with the adopted Development Contributions Scheme.

5.2. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities

- 5.2.1. Section 3.3.4 of the Sustainable Residential Development and Compact Settlement Guidelines relates to Settlement, Area Types and Density Ranges for Small and Medium Sized Towns (1,500 – 5,000 population). According to the 2022 Census Bundoran had a population of 2,599 in 2022. The town therefore falls within this category. Section 3.3.4 of the Guidelines describes the towns as follows:

Small to medium sized towns outside of metropolitan areas vary considerably in terms of population, employment and service functions and the level of public transport

provision. Some small to medium sized towns have a district-wide service and employment function and are largely self-sustaining. Others, particularly those within commuting distance of cities, have experienced rapid residential expansion in recent decades based on population growth that is generated by economic drivers in larger urban centres. Many of these ‘commuter’ type towns have a high population but are reliant on other centres for employment and services and tend to be heavily car-dependent.

The recommended approach for small to medium sized towns will be to plan for growth arising from economic drivers within and around the settlement and to offer an improved housing choice as an alternative, including serviced sites, to housing in the countryside. Given the range of settlement types in this tier, planning authorities will, as part of the statutory plan making process, need to refine the density standards set out in Table 3.6 to respond to local circumstances.

- 5.2.2. Table 3.6 relates to Areas and Density Ranges Small to Medium Sized Towns and outlines that: *“The edge of small to medium sized towns are the lower density housing areas constructed around the centre, while urban extension refers to greenfield lands at the edge of the built-up area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that densities in the range 25 dph to 40 dph (net) shall generally be applied at the edge of small to medium sized towns”.*
- 5.2.3. Section 3.2 of the Guidelines relates to Tailoring Policy to Local Circumstances. This outlines that while densities should generally be within the ranges set out in Section 3.3 it may be necessary and appropriate in some exceptional circumstances to permit densities that are above or below the ranges set out in Section 3.3. In such circumstances, the planning authority (or An Bord Pleanála) should clearly detail the reason(s) for the deviation in the relevant statutory development plan or as part of the decision-making process for a planning application, based on considerations relating to the proper planning and sustainable development of the area.
- 5.2.4. Section 4.4 relates to key indicators of quality urban design and placemaking including (i) Sustainable and Efficient Movement (ii) Mix and Distribution of Uses (iii) Green and Blue Infrastructure (iv) Public Open Space and (v) Responsive Built Form.

5.3. Natural Heritage Designations

5.3.1. The appeal site is not located within any designated European site. The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:

- Donegal Bay SPA (Site Code 004151) – 0.5km
- Erne Estuary/Finner Dunes pNHA (Site Code 000139) – 1.6km
- Lough Melvin SAC (Site Code 000428) – 0.9km
- Lough Melvin pNHA (Site Code 000428) – 1km
- Bunduff Lough And Machair/Trawalua/Mullaghmore pNHA (Site Code 000625) – 5.9km
- Bunduff Lough And Machair/Trawalua/Mullaghmore SAC (Site Code 000625) – 5.9km

5.4. EIA Screening

5.4.1. This proposed development, is of a class of development included in Schedule 5 to the Regulations. Class 10(b) of Schedule 5 to Part 2 of the Regulations provides that mandatory EIA is required for the following classes of development:

- (i) construction of more than 500 dwelling units,
- (iv) urban development, which would involve an area greater than 2 ha in the case of a business district*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

5.4.2. The proposal comprises the construction of 68 no. residential units on a 3.7ha site. The site area is therefore well below the applicable threshold for urban development. The proposed development falls below the development threshold and mandatory EIA is therefore not required. The site is located within the environs of Bundoran. The nature of development within the vicinity of the site is defined by a residential land uses. The development will not have an adverse impact in environmental terms on surrounding land uses.

- 5.4.3. I have given consideration to whether sub-threshold EIA is required. The introduction of a residential development on a serviced site within the development boundary of Bundoran will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of natural or cultural heritage and the proposed development and in my view is not likely to have a significant effect on any designated Natura 2000 site as detailed further in Section 8 of this report.
- 5.4.4. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Uisce Éireann and Donegal County Council, upon which its effects would be marginal.
- 5.4.5. Having regard to:
- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
 - The location of the site within the development boundary of Bundoran, which is served by public infrastructure, and the existing pattern of development in the vicinity,
 - The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended),
 - The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
 - The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),
- 5.4.6. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination a sub-threshold environmental impact assessment report for the proposed development was not necessary.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted by Mark Picken, Church Road, Magheracar, Bundoran in respect of the notification of decision of Donegal County Council to grant permission for the development. The following provides a summary of the grounds of appeal:

Validity of the Application

- The appeal outlines that the initial application was invalid as the application boundary extended to include part of the appellant's property. The application should have been deemed invalid on this basis. Donegal County Council requested the applicant to confirm ownership extent within the request for further information.

Further Information Request not complied with

- The appeal refers to DCC's request for further information and outlines that the Council's request to redesign the entrance to the development was not complied with. It is stated that the revised layout, which is located between the applicant's property and a proposed dwelling, makes it more difficult for vehicular traffic to find. The appellant refers to other schemes along Church Road including White Maple which was completed by the developer where a generous entrance was provided.
- The appeal raises concerns in relation to speeding along Church Road. Residents in the area erected signage along the southern approach to the proposed entrance to reduce speeding.
- The appeal raises concern in relation to visibility at the proposed southern site entrance from Church Road. It is stated that the vision line does not appear to be achievable when the drawings submitted are scaled. It is stated that the vision line still runs across the appellant's property folio as illustrated in Figure 5 of the appeal.
- The appellant raises concern in relation to the restricted access to the site and rear of his property from the laneway. There is no clear proposal on how the

laneway is proposed to be finished. It is stated that the proposal includes works to half of the laneway and renders the other half unusable. The appellant requests that access to his property from the laneway is facilitated.

Overlooking

- The appeal raises concern in relation to overlooking from the development to his property. A revised design for proposed houses 1-7 is requested to negate against overlooking. Suggestions for revisions to House Type 1 and House Type 2 are detailed within the appeal.

6.2. Applicant Response

A response to the grounds of appeal was submitted on behalf of the applicant. The following provides a summary of the key points raised:

- The revised drawings submitted in conjunction with the FI response illustrate that the development does not impact on the appellant's property. The approved layout will not impact on his ownership. A hedgerow boundary will be implemented on the private lane and the appellant can do as he wishes within this line.
- Sightlines are fully achievable in accordance with all regulations. The proposed entrances are fully in accordance with DMURS and have been agreed with the Roads Department in Donegal County Council.
- The layout has been amended as per the requirements of the Planning Authority. All houses have been designed and agreed with the Planning Authority.
- The appeal response outlines that the developer is in a position to implement the development immediately allowing new dwellings to the market.

6.3. Planning Authority Response

Donegal County Council provided a response to the third-party appeal on the 22nd of August 2023. The following provides a summary of the key points raised:

- The contents of the appeal are noted. The main concerns raised relate to interface of the development with the appellants dwelling. The appeal does not seek to prevent development entirely on the site.
- The appeal site is located on zoned and serviced lands within the County Donegal Development Plan 2018-2024 (as varied). It is accessible to all existing amenities and the applicant has a proven track record of delivery of high standard residential estates within the town.
- DCC is satisfied that all matters raised within the request for further information have been addressed.
- Revisions to the layout of the development were made to protect the privacy of the appellant. The siting of dwelling no. 8 provides street frontage along Church Road and the separation distance back-to-back between existing and proposed dwellings is in accordance with required guidelines.
- The site entrance is within the 50km/ph speed limit. Speeding is a matter for An Garda Siochana.
- Other matters have previously been addressed within the planner's reports dated the 24th of January 2023 and the 4th of July 2023. DCC wishes to rely on the contents of same in response to the appeal.

7.0 Assessment

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

- Principle of Development – Compliance with Policy
- Access and Traffic Impact
- Design and Layout
- Impact on Residential Amenity
- Other Issues

7.2. Principle of Development/ Compliance with Policy

- 7.2.1. The proposed development, as amended in response to DCC's request for further information seeks demolition of 2 no. existing dwellings on site and the construction of 68 no. housing units, associated access and site development works. The site is located within the settlement boundary of Bundoran a designated Layer 2 Strategic Town within the County Settlement Strategy.
- 7.2.2. The application site is subject to four separate zoning objectives within Map 14.1 of the County Donegal Development Plan 2018-2024 (as varied) as detailed below:
- The appeal site is primarily zoned for Residential Phase 1 purposes with an objective *"to reserve land primarily for residential development"*.
 - The existing dwellings on site including the centrally located cottage and dwelling fronting Church Road are zoned for "Established Development" purposes with an objective *"To conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement subject to all relevant material planning considerations, all the policies of this Plan, relevant National/ regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area"*.
 - The existing field to the east of the existing cottage on site is zoned for Residential Phase 2 purposes *"To reserve land for residential development as a long-term strategic land bank"*.
 - The field to the east of the site is zoned for Recreational/ Leisure purposes with an objective *"To make provision for new and maintain existing recreation facilities"*.
- 7.2.3. The majority of the site is zoned for Residential Phase 1 purposes within the Development Plan with an objective *"to reserve land primarily for residential development"*. The policies and objectives of the Plan support the development of new housing on Phase 1 lands over the lifetime of the Development Plan (Policy BD-H-P-1). The development is therefore considered to be in accordance with the zoning objective pertaining to the majority of the site.

- 7.2.4. The appeal site is currently occupied by 2 no. dwellings, agricultural structures and agricultural land. The existing dwellings are zoned for “Established Development” purposes within the Development Plan. Policy BD-H-P-1 of the Plan outlines that proposals for new housing can be considered on lands zoned for established development purposes. I consider that the principle of the demolition of the dwellings is acceptable to facilitate the future residential development of the site. However, I note that elevations or sections of the existing dwellings proposed for demolition are not provided with the application in accordance with the requirements of Part 4 Article 22 (5) of the Planning and Development Regulations 2001- 2023.
- 7.2.5. A small area of the site located adjacent to the existing cottage and agricultural structures is zoned for “Residential Phase 2” purposes within the Development Plan. I refer to the requirements of Policy BD-H-P-2 of the CDDP which outlines that: *“It is a policy of the Council to ensure the adequate supply of future strategic landbank for the purposes of housing beyond the life of the Plan through the identification of circa 72 hectares of lands as ‘Residential- Phase 2.’ The Council shall examine and manage the appropriate release of ‘Residential- Phase 2’ lands on the basis of a clear and transparent evidenced led approach that will involve annual assessment of the uptake of land zoned ‘Residential- Phase 1’ and having regard to relevant environmental designations. Release of ‘Residential- Phase 2’ lands shall only occur through a review or variation of the Development Plan or through the preparation of a Local Area Plan”.*
- 7.2.6. I note that compliance with the requirements of Policy BD-H-P-2 and justification for release of Phase 2 lands through a review or variation of the Development Plan has not been addressed within the application documentation. Notwithstanding this, I note that DCC have not raised objection to the development of this portion of the site. Having regard to the limited portion of the site which is subject to a Phase 2 zoning objective and the interface of this zoning objective with Phase 1 zoned lands, I consider that a case could be made for the development of this portion of the site can be facilitated in the event that the overall development is deemed acceptable.
- 7.2.7. Part of the site to the east is zoned for Recreational/Leisure purposes within the Development Plan. This zoning objective seeks: *“To make provision for new and maintain existing recreation facilities”.* On review of the site layout, I note that 3 no. residential units (Proposed Units 38, 60 and 61), car parking proposed to serve units

66 to 68 and access roads are proposed within this area. While there is no zoning matrix for Bundoran set out within the CDDP, I consider that the development of this portion of the site for residential purposes would be contrary to the Recreational/Leisure zoning objective pertaining to this area of the site as the development would not “make provision for new and maintain existing recreation facilities”. I consider that this could be addressed by means of condition requesting the omission of proposed units 38, 60 and 61 in the instance that the overall layout of the development is deemed acceptable, and the Board is minded to grant permission for the development.

- 7.2.8. On an overall basis, while I consider that the principle of the development of the site which is primarily zoned for Phase 1 residential purposes for residential purposes within the settlement boundary of Bundoran is acceptable, I consider that the application documentation has not demonstrated how the proposal accords with the mix of zoning objectives pertaining to the site. This is particularly relevant in relation to the proposal to develop residential units on a portion of the site which is zoned for “Recreational/ Leisure” purposes. I consider that these points could potentially be addressed by means of condition in the instance that the development is deemed acceptable to the Board.

7.3. Density, Layout and Design (New Issue)

Density

- 7.3.1. The proposal, as revised in response to Donegal County Council’s request for further information, comprises the construction of 68 no. residential units, together with site access and associated site development on a 3.7ha site. The development yields a gross density of 18 units per ha. No figure for net density is set out within the application documentation.
- 7.3.2. Section 3.3.4 of the Sustainable Residential Development and Compact Settlement Guidelines relates to Settlement, Area Types and Density Ranges for Small and Medium Sized Towns (1,500 – 5,000 population). According to the 2022 Census, Bundoran had a population of 2,599 in 2022. The Guidelines recommend densities in the range of 25 to 40 units per hectare for Small and Medium Sized Towns. The Core Strategy sets out within the County Donegal Development Plan assumes a net

density of 12 units per ha for residentially zoned lands in settlements including Bundoran.

- 7.3.3. While the proposed density is below the density range for Small and Medium Sized Towns set out within the Compact Settlement Guidelines of 25 to 40 units per ha, I consider that the principle of the proposed density could be deemed acceptable and in accordance with the existing site context and provisions of the County Donegal Development Plan including Policy UB-P-10 in this regard. I note that Donegal County Council has not raised objection to the proposed density. I furthermore consider that density is just one of many factors which influence the quality of a development.

Layout

- 7.3.4. The layout is generally suburban in nature, includes in curtilage parking and public and private amenity space. I refer to the requirements of Policy UB-P-7 of the County Donegal Development Plan which outlines that: 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 key Government publications.
- 7.3.5. The application Cover Letter outlines that the proposal has been designed in accordance with the criteria set out within the Urban Design Manual, A Best Practice Guide, A Companion Document to the Planning Guidelines on Sustainable Residential Development in Urban Areas' DEHLG, 2009. I note that the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities replace the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2009. Section 4.4 of the Guidelines relates to Key Indicators of Quality Urban Design and Placemaking including (i) Sustainable and Efficient Movement (ii) Mix and Distribution of Uses (iii) Green and Blue Infrastructure (iv) Public Open Space and (v) Responsive Built Form.
- 7.3.6. I have concerns in relation to the overall layout and quality of the proposed development, particularly in relation to the siting of the proposed public open space, the internal road network and alignment and configuration of the proposed houses. The proposed layout also includes undefined areas in the vicinity of the proposed

roads to the east. On an overall basis I am not satisfied that the development is in accordance with the Key Indicators of Quality Urban Design and Placemaking as set out within the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities in particular in relation to the key indicators of (i) Sustainable and Efficient Movement (iv) Public Open Space and (v) Responsive Built Form as detailed below.

Public Open Space

- 7.3.7. I note the concerns raised by DCC within the request for further information in relation to the siting of public open space within the scheme. I am not satisfied that this has been satisfactorily resolved within the revised layout submitted in response to the FI response. The Sustainable Residential Development and Compact Settlements Guidelines recommend that public open space should form an integral part of the overall design. While I consider that the proposed quantum of public open space is in accordance with Policy UB-P-13 of the Plan, I have concern in relation to the siting of the proposed public open space on grounds of accessibility, usability and limited overlooking from the proposed houses.
- 7.3.8. The main area of public open space is located to the north of the site at the opposite side of the proposed access road. I consider that the quality of the amenity of this space will be compromised on the basis of its location adjacent to the access road and limited opportunity for active and supervised safe play area. Elsewhere within the site I have concerns in relation to the quality of the public open space on the basis of the siting of turning areas within designated open space areas and the peripheral location of the open space to the southeast of the appeal site. On an overall basis, I consider that a comprehensive redesign of open space is required.

Built Form

- 7.3.9. The Sustainable Residential Development and Compact Settlements Guidelines outline that the layout, position and composition of buildings and to how buildings address streets and open spaces is a key element in ensuring the creation of attractive and well-designed settlements. I consider that the alignment and configuration of residential units, the inclusion of undefined areas in the vicinity of the proposed access roads, and the siting of the public open space on the site result in a poor-quality built form within the development.

Sustainable and Efficient Movement

- 7.3.10. Key principles for Sustainable and Efficient Movement as identified within the Guidelines include the creation of connections to the wider urban street and transport networks and improved connections between communities. I have concern in relation to the proposed access arrangements, the internal road layout within the scheme and permeability with adjoining lands to the south and east as detailed in Section 7.5 of this report.

Dwelling Mix and Design

- 7.3.11. The development includes a mix of dwelling types and formats of units ranging from 2 to 4 bed detached, semi-detached and terrace units. I consider that the proposed dwelling mix/format/typology will promote a mix in tenure within the development. Dwelling materials reflect those established within existing properties in the area.

Conclusion

- 7.3.12. In conclusion, I consider that the proposal by reason of the siting of the proposed public open space and alignment and configuration of proposed residential units results in a poor-quality layout and design concept. I am not satisfied that the development is in accordance with the key design principles as set out within Section 4.4 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities. I consider that the development is contrary to the requirements of Policy UB-P-7 of the County Donegal Development Plan in this regard.
- 7.3.13. It is my view that a significant redesign of the scheme is required and that this cannot be addressed by way of condition. This is a new issue, and the Board may wish to seek the views of the parties request a revised layout. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.4. Impact on Residential Amenity

- 7.4.1. In terms of impact on residential amenity, the appeal raises specific concern in relation to overlooking from the development to his property at Church Road to the east of the site. A revised design for proposed houses 1-7 is requested to negate against overlooking. The appeal requests revisions to House Type 1 and House

Type 2 inclusion omission of dormer/gable windows and provision of obscure glazing to ensuite windows.

- 7.4.2. I refer to the Site Layout Plan, Drawing no. McH/03 which illustrates a separation distance of 27.8m between proposed house no. 7 and the appellants dwelling. Proposed unit 7 has a garden depth of 9.4m. The dwelling has a height of 6.8m and includes a dormer bedroom window and ensuite window. Proposed boundary treatment as illustrate within the landscaping plans include a 1.8m high timber fence to the rear of properties. I note that units no. 1 to 7 are all set back a minimum of 22m from existing dwellings fronting Church Road.
- 7.4.3. The proposed separation distances are in excess of the standards set out within SPPR 1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities which outlines that *“When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained.*
- 7.4.4. On the basis of the proposed separation distance between existing and proposed dwellings and the proposed boundary treatment, I do not consider that the proposal will result in overlooking of existing properties on Church Road. I do not consider that the proposed dormer/gable windows in Units 1-7 will result in overlooking of the appellants property or any other property on Church Road. I consider that ensuite/bathroom windows should have obscure glazing. I am satisfied that this can be addressed by means of condition in the instance of a grant of permission.
- 7.4.5. Elsewhere within the scheme, I am satisfied that the revisions made to the layout in response to DCC’s request for further information in relation to overlooking of the existing dwelling to the south of the site has been addressed within the revised drawings. This area is now proposed as public open space to serve the development.
- 7.4.6. In conclusion, I do not consider that the proposed development would detrimentally impact on the residential amenity of existing dwellings within the vicinity of the site.

7.5. Access and Road Layout

- 7.5.1. The appeal raises concerns in relation to the proposed access arrangements to the development from Church Road. Specific concern is raised in relation to the design and the achievement of sightlines at the proposed southern site entrance and the interface of the proposed southern access road with the appellant's property. The appeal furthermore outlines that there are current issues with speeding along Church Road in the vicinity of the site.

Proposed Access

- 7.5.2. Access to the development is proposed via Church Road (R280). 2 no. vehicular entrances are proposed, one to the northwest of the site in the area of the site currently occupied by a residential dwelling and a second entrance further south in the vicinity of the existing laneway. Church Road runs in a straight alignment in the vicinity of the site and operates within a speed limit of 50 km/ph. I note the reference within the appeal to existing speeding along Church Road, however this is not a matter for the Board to adjudicate upon.
- 7.5.3. The appellant raises concern in relation to the design of the southern access road and questions the achievement of the required sightlines. The appeal outlines that the vision line runs across his property folio as illustrated in Figure 5.
- 7.5.4. The proposed access road is 5.5m and includes footpaths at either side of the road in accordance with the requirements of DMURS. The Site Layout Plan (Drawing no. McH/03) illustrates sightlines of 45m from the proposed entrances. The applicant's FI response outlines that no works are required to 3rd party lands to provide the required sightlines. The Road Design Report (22/06/23) outlines that the visibility splays are not illustrated in accordance with the relevant guidance (i.e. these illustrated at 2.4 m from the development exist rather than 2.4m from the near side road edge). The report recommends a grant of permission subject to condition which outlines that visibility splays at the proposed entrances should be provided in accordance with the requirements of Section 4.4.5 of DMURS. Condition no. 6 of DCC's notification of decision to grant permission for the development which outlines that *"permanent visibility splays of 45 meters shall be provided in each direction to the nearside road edge at a point 2.4m back from the road edge at location of vehicular entrance"*.

- 7.5.5. I am satisfied that there are no significant obstructions to the achievement of sightlines at the proposed site entrances. Notwithstanding this, I do have concern in relation to the principle of the proposed access arrangements in terms of its compliance with the objective of the County Donegal Development Plan to provide a strategic link route to serve the undeveloped lands to the south of Bundoran town centre as detailed below.

Roads Objectives

- 7.5.6. A Proposed Indicative Road Alignment is highlighted on Map 14.1: 'Bundoran Land Use Zoning Map' to the north of the site. The CDDP outlines that the Council will take a holistic approach to the short- and long-term development of the undeveloped backlands, located to the south of the town and reserve a strategic link route to ensure adequate access is provided and maintained to this area throughout the life of the Plan.
- 7.5.7. The Plan outlines that the optimal location for the distributor road shall be determined through the undertaking of a detailed road design scheme. Until such a time as a scheme has been prepared and the route incorporated into the Plan, the Council will reserve a 25m indicative corridor that makes provision for a 7m wide carriageway adjoining 4m wide footpaths incorporating cycle paths with an additional 5m to either side to allow for future expansion/maintenance/provision of public transport corridor. The indicative road alignment runs to the north of the appeal site. While in general I am satisfied that the proposal does not impinge on this requirement I do not consider that the required reservation for the strategic access route has been accommodated to the area to the east of the appeal site where the indicative route is located within the immediate vicinity of the appeal site.
- 7.5.8. The proposed development includes the creation of 2 no. vehicular entrances from Church Road. There is no reference within the application documentation to the interface of the proposal with the proposed strategic access road and the tie in of the proposed vehicular entrances to the site from Church Road to this route. I am not satisfied that the proposal provides for a holistic approach to the development of the undeveloped backlands of Bundoran. It is my view that the creation of multiple vehicular entrances represents a piecemeal rather than holistic development of the area.

7.5.9. The County Donegal Development Plan furthermore outlines that applications for development of lands affected by proposed indicative alignments will be required to demonstrate how they facilitate permeability and linkages between neighbouring landholdings. The Site Layout Plan indicates proposed future access to lands to the east. I have concern in relation to the “tie in” of these roads with lands to the east. The internal road network to the northeast of the site includes 2 no. roads which stop short of the site boundary and there are no proposals for the areas adjoining the roads. I also have concern in relation to the connectivity of the development o lands to the south of the site. I note that these are not included within the application boundary but are identified as being within the ownership of the applicant within the Land Registry Folio details submitted in response to DCC’S request for further information.

7.5.10. I refer to the requirements of Policies BD-T-P-5, BD-T-P-6 and BD-T-P7 of the Development Plan, as detailed below, which seek to safeguard, facilitate and enhance permeability between lands impacted by the Roads Objective.

- BD-T-P-5: To safeguard the route for the development of a distributor link road as identified on the Land-use Zoning Map to provide access to new development lands within the by-pass. Proposals that would interfere with or obstruct the detailed route of the distributor road and any associated link roads shall not be permitted.
- BD-T-P-6: In the absence of a detailed design scheme, the Council shall consider the construction of the roadway by private developers as the land is developed. The Roadway shall follow the route of the indicative road as indicated on Map 14.1: ‘Bundoran Land Use Zoning Map’ that accompanies this part of the Plan. In the case of the lands south and west of Drumacrin Road the sole vehicular access shall be taken from this indicative road.
- BD-T-P-7: Applications for development of lands affected by proposed indicative alignments will be required to demonstrate how they facilitate permeability and linkages between neighbouring landholdings. Developments which prejudice such linkages will be necessarily refused as contrary to the proper and orderly planning of the Plan area.

7.5.11. On the basis of the information set out within the application and appeal I am not satisfied that the development would satisfactorily safeguard the route for the bypass and not interfere or obstruct its route. I am also not satisfied that the development would provide sufficient permeability with the neighbouring lands to the east. I recommend that permission is refused for the development on this basis.

Internal Roads Layout

7.5.12. I have the following concerns in relation to the internal road layout:

- The interface between the proposed home zone area to the east of proposed units 2 to 7 with the proposed road to the south.
- The tie in of the proposed footpath to the east of proposed units 1 and 2 to the proposed roads layout is unclear.
- The siting of turning areas within the areas of public open space. I refer to the requirements of Condition no. 3 of DCC's notification of decision to grant permission for the development which relate to the relocation of turning head areas in the vicinity of the proposed public open space.
- Parking arrangements for proposed units 9 and 10 are unclear within the Site Layout Plan.

7.5.13. Having regard to concerns in relation to the principle of the proposed access arrangements and road layout I consider that these are best addressed in a revised proposal.

Upgrading of Laneway

7.5.14. The appeal raises concern in relation to the proposals for the existing laneway between the appeal site and the appellants property. It is requested that the full extent of the existing laneway is upgraded, and an access facilitated to the side of the appellants dwelling. Vehicular access to the appellant's property is currently provided from Church Road.

7.5.15. I note that the issue of ownership of the laneway was raised within DCC's request for further information. The application boundary was revised to omit lands in the ownership of the appellant. While I accept the point raised by the appellant in relation to the interface of the proposal with the laneway, I note that the works requested by

the appellant including upgrades to the laneway are outside of the remit of the application.

7.6. Other Issues

Validity of Application

- 7.6.1. The appeal questions the validity of the planning application on the basis that the initial application extended to include part of the appellants property. Donegal County Council requested the applicant to confirm ownership extent within the request for further information. Item 3 of Donegal County Council's request for Further Information requested the Applicant to submit a copy(ies) of the Land Registry folio for the overall site area confirming that all lands are in the ownership of the applicant.
- 7.6.2. The applicants FI response included a copy of the Land Registry folio with ownership outlined in red. A revised Site Layout Plan was submitted which omitted third party lands from the application boundary. On the basis of the information submitted in conjunction with the application and appeal, I am satisfied that land ownership has been confirmed by the applicant in response to Donegal County Council's request for further information.
- 7.6.3. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. [Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal.] In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

8.0 AA Screening

Compliance with Article 6(3) of the Habitats Directive

- 8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 8.2. A Screening report prepared by Hydrec Environmental Consulting was submitted in conjunction with the application.

8.3. The Screening Report was prepared in line with current best practice guidance. It provides a description of the proposed development and identifies European Sites within a possible zone of influence of it. The Report concludes that: *“Given the proximity of the proposed development’s northern boundary to the headwaters of a number of tributaries of the Bradoge River (i.e. which in turn flows into Donegal Bay), it was concluded that potential impacts arising from the development could not be discounted at the screening stage (see Table 3).*

8.4. Having reviewed the documents, and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment - Test of likely significant effects

8.5. 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).

8.6. 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 in view of the conservation objectives of those sites.

Project Description and Site Description

8.7. A description of the proposed development is set out within Section 2 of this report. The Ecological field survey submitted as part of the applicant’s NIS (Section 4.2) outlines that 4 habitat types were recorded on the site including improved grassland (GA1), Hedgerow (WL1), Treelines (WL2) and Buildings and Artificial Surfaces (BL3). None of the habitats on site are identified to be of high sensitivity and the ecological value of the site is identified as low. No invasive species were recorded on site.

8.8. Section 3 of the report outlines that 2 no. unnamed streams located to the north of the appeal site (as illustrated in Figure 2). These watercourses are also identified in EPA mapping which illustrates that the streams run in a northern direction towards the Bradoge River. These streams merge with the Bradoge River further north which

flows in an east to western direction towards Donegal Bay SPA located c. 500m from the appeal site.

Submissions and Observations

- 8.9. The observation on file from the Department of Housing Local Government and Heritage (23rd of January 2023) refers to the hydrological connection of the site to the Donegal Bay SPA and the NIS submitted in conjunction with the application. The report recommends that the mitigation measures set out in the NIS should be carried out.
- 8.10. Donegal County Council's Screening Assessment outlines that *"Further to an assessment of the proposed development and on the basis of the following principal reasons:*
- *The location of the development in the urban area on fully serviced lands,*
 - *The fact that the development would not result in any direct loss or fragmentation of habitat from the aforementioned Natura 2000 site.*

The Planning Authority is of the opinion that the proposed development would not have a significant effect on the Donegal Bay Special Protection Area (Site Code: 004151)".

European Sites

- 8.11. The development site is not located in a European site. The nearest designated site to the appeal site is the Donegal Bay SPA (Site Code 004151) which is c.500m from the appeal site. Other Natura 2000 within the vicinity of the appeal site are detailed in Table 1 of the applicant's report. Table 3 of the report entitled "Summary of Appropriate Assessment Screening Conclusion" outlines that all other sites identified in Table 1 can be discounted from further assessment on the basis of lack of linkages.
- 8.12. The Assessment identifies a pathway between the site and the Donegal Bay SPA via existing watercourses to the north of the site which connects to the Bradoge River and flow to the SPA. The report concludes that: *"Given the proximity of a number of tributaries of the Bradoge River to the northern boundary of the site, mitigation measures should be introduced to lower the risk of accidental contamination and subsequent water quality deterioration during construction given the proximity of the*

SPA. An assessment for the potential for an indirect impact (e.g. disturbance of wintering birds) should be undertaken given the proximity of the proposed development to the SPA”.

8.13. Table 1 of the applicant’s AA Screening Report identifies the qualifying interest of the Donegal Bay SPA as follows:

- [A003] Great Northern Diver (*Gavia immer*);
- [A046] Light-bellied Brent Goose (*Branta bernicla hrota*);
- [A065] Common Scoter (*Melanitta nigra*);
- [A144] Sanderling (*Calidris alba*); and,
- [A999] Wetlands.

Conservation Objectives

8.13.1. The conservation objectives for Donegal Bay SPA (site code: 004151) are: (1) to maintain the favourable conservation condition of Great Northern Diver [A003]; (2) to maintain the favourable conservation condition of Light-bellied Brent Goose [A046]; (3) to maintain the favourable conservation condition of Common Scoter [A065]; (4) to maintain the favourable conservation condition of Sanderling [A144]; and, (5) to maintain the favourable conservation condition of the wetland habitat in Donegal Bay SPA as a resource for the regularly-occurring migratory waterbirds that utilise it [A999].

Identification of Likely Effects

8.14. Section 4.2 of the NIS relates to Potential Impacts. This outlines that no direct impacts will occur through land take/ habitat loss or fragmentation of habitats as the site is not located within the SPA.

8.15. Section 2.2.2 of the report outlines that a survey of the site was undertaken on the 12th and 13th of August 2022 of Light Bellied Brent Geese which are on occasion know to feed on grasslands when estuarine eel grass food reserves are depleted. None were identified on site during the site survey. Section 3.5 of the report outlines that the no record of this species was identified within a 400m radius of the proposed development site within the most recent National Biodiversity Data Centres Survey

undertaken in April 2019. Other waterbirds designated as part of the SPA would not be expected on site owing to the lack of shore/vegetated island habitat.

- 8.16. In terms of indirect impacts, the report outlines that given the proximity of two stream sources to the northern boundary of the site it is imperative that mitigation measures are implemented to prevent the contamination of these watercourses and subsequent downstream contamination of the Bradoge River and subsequently Donegal Bay via the subsurface / baseflow pathway. The key effects identified within the NIS therefore relate to impact on water quality. Noise/ air and dust pollution are not envisaged during construction and operational phases of the development given the distance of the site to the SPA boundary.
- 8.17. Construction related impacts relate to the escape of suspended soils or oil to the watercourse which runs to the north of the site and outfalls to the Donegal Bay SPA. The applicant's Natura Impact Statement details measures which would be adopted at construction phase of the development to negate against impact on the adjoining watercourse. In practice these are similar to 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.
- 8.18. 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.
- 8.19. At operational phase the proposal includes outfall of surface water to the watercourse to the north of the site. The proposed SuDS measures will restrict run off to the watercourses to pre-development greenfield run off rates. Foul drainage proposals seek to connect to the existing foul water network in the vicinity of the site. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge, and thus its impact on the overall discharge would be negligible.
- 8.20. Section 4.3 of the report relates to mitigation measures. I am satisfied that the measures set out are standard construction phase controls. Having regard to the nature and extent of the proposed development and its distance from designated Natura 2000 site, the nature of the qualifying interests of the SPA and the nature of

measures proposed I consider that there are no individual elements of the proposed project that are likely to give rise to significant effects on the Donegal Bay SPA.

- 8.21. Although a source-pathway-receptor linkage exists between the application site and the designated habitats of the Donegal Bay SPA (Site Code: 004151) 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, the nature of intervening development and dilution effects I do not consider that impacts on the downstream SPA would arise.
- 8.22. 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.

Cumulative Impacts

- 8.23. Section 4.2.3 of the applicant's NIS relates to Cumulative Effects. No cumulative impacts associated with any neighbouring developments are identified. As there are no impacts to the Donegal Bay 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.

Screening Determination

- 8.24. 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 Donegal Bay SPA (004151) 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.

9.0 Recommendation

I recommend that planning permission is refused in accordance with the following reasons and considerations.

10.0 Reasons and Considerations

1. Map 14.1 of the County Donegal Development Plan 2018-2024 (as varied) “Bundoran Land Use Zoning Map” illustrates a Proposed Indicative Road Alignment to the north of the appeal site. Policies BD-T-P-5, BD-T-P-6 and BD-T-P7 of the Development Plan, seek to safeguard, facilitate and enhance permeability between lands impacted by the Roads Objective. The Development Plan outlines that the Council will take a holistic approach to the short- and long-term development of the undeveloped backlands, located to the south of the town and reserve a strategic link route to ensure adequate access is provided and maintained to this area throughout the life of the Plan. The proposed development includes the creation of 2 no. vehicular entrances to the site from Church Road to the south of the Indicative Road Alignment and the internal road network connects to the lands to the east. The application documentation does not include reference to the strategic link route and the overall function of the proposed access roads and their tie in with adjacent landholdings is un-defined. The Board is not satisfied that the proposed access arrangements would satisfactorily provide a holistic approach to the development of the backlands, safeguard and not interfere with or obstruct the route of the proposed bypass or provide sufficient permeability with adjoining landholdings. The proposal would be contrary to the requirements of Policies BD-T-P-5, BD-T-P-6 and BD-T-P7 of the County Donegal Development Plan 2018-2024 (as varied) and the proper planning and sustainable development of the area.
2. Policy UB-P-7 of the County Donegal Development Plan 2018-2024 (as varied) outlines that: 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 key Government publications”. The Board consider that the proposal by reason of the siting of the proposed public open space, internal road layout, and alignment and configuration of proposed residential units results in a poor-quality layout and design concept which is contrary to the Key Design Indicators of Quality

Design and Placemaking as set out within Section 4.4 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities. The proposed development would therefore be contrary to the requirements of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, Policy UB-P-7 of the County Donegal Development Plan 2018-2024 (as varied) and the proper planning and sustainable development of the area.

Note: ‘This is a new issue in the appeal and the Board may wish to seek the views of the parties’.

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

Stephanie Farrington
Senior Planning Inspector

8th of May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317709-23			
Proposed Development Summary	A period of 10 years for development consisting of the following: (1) Demolition of 2 detached houses (2) Construction of 73 houses.			
Development Address	Church Road, Bundoran			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
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?				
Yes		Class.....	EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
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]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes		Yes. Class (10)(b) of Schedule 5 Part 2		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317709-23	
Proposed Development Summary	A period of 10 years for development consisting of the following: (1) Demolition of 2 detached houses (2) Construction of 73 houses.	
Development Address	Church Road, Bundoran	
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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	No. The development is located within an existing urban context. No significant waste, emissions or pollutants are envisaged.	<ul style="list-style-type: none"> • No No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing		No No

and/or permitted projects?		
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	No	No No
<div> • Conclusion </div>		
There is no real likelihood of significant effects on the environment. EIA not required. X	<div> • There is significant and realistic doubt regarding the likelihood of significant effects on the environment. </div> Schedule 7A Information required to enable a Screening Determination to be carried out.	There is a real likelihood of significant effects on the environment. EIAR required.

Inspector: _____

Date: _____