



An
Bord
Pleanála

Inspector's Report ABP-319283-24

Development	A period of 10 years for an LRD. Construction of phase 2 of a housing development consisting of 160 no. houses and 7 no. apartment blocks all associated site development works, infrastructure and services.
Location	Glencar Irish and Glencar Scotch, Letterkenny, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	23/50689
Applicant	PJ McDermott
Type of Application	Large-Scale Residential Development
Planning Authority Decision	Grant Permission
Type of Appeal	<ol style="list-style-type: none">1. First Party vs. Conditions2. Third Party vs. Grant
Appellants	<ol style="list-style-type: none">1. PJ McDermott2. The Old Glencar Rd and Others, Residents Association
Observers	None
Date of Site Inspection	18 th April 2024 & 10 th May 2024
Inspector	Stephen Ward

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1.0 Introduction

- 1.1. This case involves first-party and third-party appeals against the Donegal County Council (DCC) decision to grant permission for this Large Scale Residential Development (LRD). The proposed development would be 'Phase 2' of an earlier proposal (Phase 1) to construct 90 residential units and a creche on the southern portion of the overall site. DCC made a decision to grant Phase 1, which is also the subject of a current third-party appeal (ABP Ref. 316160-23). While the 'red line' site boundary in this case includes Phase 1, and the two applications are clearly linked, I confirm that this case requires a determination on the Phase 2 portion only. However, I am reporting on both cases concurrently and I would advise that both reports should be read in conjunction.

2.0 Site Location and Description

- 2.1. The application states that the overall site (i.e. Phases 1 & 2) has an area of 15.7 hectares (ha). It states that Phase 2 has a gross area of 10.2ha and a net area of 8.1ha (which excludes planted buffers, open spaces and the main access road through the site that will function as a future distributor road to other lands to the north and east). The site is located within an elevated area on the northwest suburban environs of Letterkenny, approximately 1.5km walking distance from the town centre. This area is mainly characterised by low-density suburban housing and some small-scale commercial/community services.
- 2.2. The site (Phases 1 & 2) is mainly a 'backland' site surrounded by existing residential development to the east, west, and south. The adjoining land to the north is mainly undeveloped. Narrow portions of both sites (Phase 1 & 2) extend to the adjoining public road to the west (variously referred to as 'The Grange', 'Old Glencar Road', or 'Glencar Irish / Glencar Scotch Road'). This road is served by footpaths and public lighting linking with the town centre.
- 2.3. Most of the site boundary consists of hedgerows and treelines. The predominant habitat on site is 'Wet Grassland', while there are also areas of scrub, mixed broadleaf woodland (southwest corner), and conifer woodland. The levels rise significantly from south to north, from c. 120mOD at the site entrance to c. 166mOD at the northern site corner.

3.0 Proposed Development

3.1. The application (as amended by the F.I. Response) is for a 10-year permission for the construction of 188no. residential units comprising 156 no. houses and 8 No. apartment blocks containing 32 No. apartments. The residential units can be broken down as follows:

- House Type A – 4 Bed Semi-Detached (60no. units)
- House Type B – 3 Bed Semi-Detached (22no. units)
- House Type B1 – 3 Bed Semi-Detached (20no. units)
- House Type B1H – 3 Bed Semi-Detached (20no. units)
- House Type C – 3 Bed Terraced Block (6no. Blocks – 24no. units)
- House Type D – 2 Bed Terraced Block (2no. Blocks – 8no. units)
- Apartment Type E – 2 Bed Apartments (6no. Blocks – 24no. units)
- House Type F – 2 Bed Semi-Detached (2no. units)
- House Type G – 1-Bed Apts (2 no. Blocks – 8 Units)

Housing Mix Table

House Size	Houses	Apartments	Total (%)
1-bed		8	8 (4%)
2-bed	10	24	34 (18%)
3-bed	86		86 (46%)
4-bed	60		60 (32%)
Total	156	32	188 (100%)

3.2. The other elements of the development can be summarised as follows:

- Connections to piped services proposed as part of the adjacent Phase 1 development of 90 residential units to the south.
- The two phases of development will also be connected via two no. proposed pedestrian and vehicular routes.

- New vehicular entrance from the Grange (also proposed as part of Phase 1) and an internal distributor road that will provide for future access to adjacent lands to the north and east of the site to facilitate integration of the proposed development and future adjacent developments as well as facilitating future connection to the proposed upgraded Northern Strategic Link / Windyhall Road.
- Bus stops, landscaped open spaces, play areas and planted boundary buffers, attenuation tank, retaining walls, all associated site development works, infrastructure and services.

3.3. In addition to the standard plans and particulars, the application is accompanied by the following documents and reports:

- Environmental Impact Assessment Report
- Planning Report & Statement of Consistency
- LRD Opinion Response
- Schedule of Accommodation, Housing Quality Assessment, and Schedule of Plot Details.
- Architectural Design Statement and Masterplan
- Outline Construction, Environmental and Traffic Management Plan
- Playground Layout and details of play equipment
- Outdoor Lighting Report
- Travel Plan
- Traffic & Transport Statement 1 & 2
- Drainage Summary Report & Foul & Storm Drainage Layout
- Screening Report for Appropriate Assessment
- Statement of Compliance Water / Wastewater Services
- Part V proposals.

3.4. The above information was updated and supplemented by the information submitted with the further information response.

4.0 Planning Authority Pre-Application Opinion

- 4.1. The proposals for the subject site have been subject to Section 247 discussions, with consultations being held on 15th March 2022. A pre-application LRD meeting under Section 32C of the Planning and Development Act 2000 (as amended) took place on 14th October 2022 between the representatives of the applicant and the planning authority.
- 4.2. A Large-Scale Residential Development (LRD) Opinion was issued under Section 32D of the Act on the 11th of November 2022. This Opinion concluded that certain fundamental aspects of the development proposal needed to be addressed, specifically relating to proposed traffic and access arrangements, before the making of an application. The aspects related to traffic; density; phasing; Appropriate Assessment; Environmental Impact Assessment; water services; Archaeological Assessment; Taking in Charge; Part V proposals; Storm Water Collection, Attenuation and Disposal; Visual Impacts; and other ancillary considerations.

5.0 Planning Authority Decision

5.1. Decision

By order dated 22nd February 2024, the planning authority made a decision to grant permission subject to 37 no. conditions, which are generally standard in nature. However, the notable conditions can be summarised as follows:

Condition 2 – Requires the omission of 62 no. dwellings (nos. 99-134 & 163-188) at the northern end of the site.

Condition 3 – Requires the agreement of cycle lanes, bus set down areas, and pedestrian crossing facilities in accordance with the Cycle Design Manual 2023, as well as proposals for improvements at junctions and surrounding roads.

Condition 8 – Pedestrian connection to Fairgreen Hill shall be agreed and completed prior to the occupation of any units.

Condition 34 – Section 48 Development Contribution Scheme payment of €239,146.74.

Condition 35 – Section 48 (2)(c) Special Development Contribution payment of €630,000 in respect of part completion of Northern Strategic Link Road (Windyhall Road) which will facilitate the development.

Condition 37 – Requires a Section 47 agreement to restrict the first occupation of all residential units to individual purchasers.

5.2. Planning Authority Reports

5.2.1. Further Information

The Planning Authority's initial assessment of the application resulted in a request for further information. The issues raised can be summarised as follows:

1. Submit an outline masterplan of the wider area which demonstrates connectivity between the subject site and the Windyhall Road (Northern Network Project) & the Grange/Glencar Road/Circular Road including active travel links.
2. Submit a revised traffic count to be carried out in mid-September (to early May) when the schools in the town are open and operating to accurately assess the traffic volumes of The Grange.
3. Submit a Road Safety Audit Stage 1/2.
4. Submit full details (including longitudinal sections of the road network) of footpaths (& cycleways where applicable) demonstrating how the scheme accords with Design Manual for Urban Roads and Streets (DMURS) & the National Cycle Manual, including but not limited to a schedule of technical detail required by Road Design Office which was attached as Appendix 1.
5. Address the schedule of technical detail required by Road Design Office in relation to the Proposed Drainage Strategy as was attached at Appendix 1.
6. Submit a revised drainage strategy, which omits the use of 1 x single attenuation tank (on the steepest part of the site) and provides for the installation of several smaller localised attenuation measures, which in addition to the use of attenuation tanks, shall include other SuDs measures such as swales, channel rills, basins and ponds, soakaways & permeable paving. The developer could consider the potential for a revised and improved

layout, in a form that results in improved permeability and connectivity, the creation of an off-road pedestrian/cycle route, introduction of home zone/shared surface areas and the introduction of alternative house types and designs.

7. Submit full details including construction details and cross sections of all revised attenuation features designed to green field run off rates in accordance with TII DN-DNG-03066 and include revised drainage calculations, attenuation systems & flow controls.
8. Submit revised details of all proposed retaining structures, which reduces the extent and height of overly excessive retaining walls over 2m in height and in such circumstances shall provide for alternative retaining structures which include more visually acceptable options.

Advice Notes

In order to address the above issues, the planning authority advised that the applicant may consider a revised layout to incorporate the following detailed design suggestions:

9(a) - Opportunity for pedestrian connectivity between the subject site and Fairgreen Hill (e.g. between No. 14 & 15 Fairgreen Hill) in order to improve east-west permeability to open space and other amenities (e.g. creche).

9(b) - Incorporation of some 'home-zone' shared surface principals across the proposal (particularly to the cul-de-sac elements); omission of high kerb treatment between footpaths and the main vehicular carriageway; and use of alternative brick rumble strips.

9(c) - Reconsider the design detail/house types proposed.

5.2.2. Planning Reports

The DCC assessment is outlined in two planning reports (i.e. reports prior and subsequent to the further information process). The main aspects of the reports can be cumulatively summarised under the following headings.

Principle

- The initial report noted that the site was zoned 'Primary Residential' under the CDDP 2018-2024 (as varied).
- It also noted the ongoing preparation of the Letterkenny Plan and Local Transport Plan, under which the site was proposed as 'Strategic Residential Reserve' under the Draft Plan. However, following the initial consultation and the consideration of Material Alterations in May 2023, DCC Members resolved to re-zone the site as 'Primary Residential' zoning. Further consultation was required at the time of writing the report.
- It considered the RSES objectives (including RPO 3.7.29) and that the proposal would contribute significantly to the housing growth numbers in Letterkenny.
- The report concluded that the proposal is acceptable in land use terms.

Siting & Layout

- The original report outlined concerns about the car-dominated nature of the design; constraints associated with topography and gradient; and a lack of connectivity and permeability. These concerns were outlined in the F.I. Request.
- Following the applicant's response, the subsequent Planner's report concluded that proposals were acceptable subject to conditions, including the removal of 62 no. units. The 62 units were omitted based on inadequate evidence of the viability and reliability of road connections to the Northern Network (road) Project to the north of the site, as well as the inadequacy of the existing road infrastructure to cater for the full extent of the proposed development.

Density & Mix

- The application proposes a gross density of 18dph and a net density (as per Sustainable Urban Housing Guidelines - excluding distributor roads, open spaces and landscape buffers) of 22dph.
- The density is considerably low in the context of regional and national policy/guidelines, including the Sustainable Residential Development Guidelines (2009) which promote densities of 35 to 50 dph in outer suburban and greenfield areas, while allowing for a degree of flexibility depending on context and location.

- The draft 'Sustainable and Compact Settlements Guidelines' (2023) is also considered, and it is acknowledged that densities of 35dph minimum should be expected in such suburban locations, or at least 30dph for a suburban area 'in a Large Town >10,000').
- In conclusion, the proposed density (20-22dph) is considered reasonable having regard to the challenging site topography and peripheral location of the site.
- The proposed housing mix is considered acceptable.

Visual Impact

- The proposal will assimilate well with its environs and read as a substantial 'infilling' for this part of Letterkenny. The submitted CGIs also demonstrate that the highest part of the site will be consistent with the elevation of the highest house on the adjoining sites.
- Planted buffers running between the first phase of this Phase 2 development will establish a significant visual buffer, thereby reducing any perceived impacts from the more elevated (northern) sections of the site.

Detailed Design

- The initial report raised concerns about house design and the applicant was advised of same in the F.I. Request.
- The applicant's F.I. response included revised house types, and these were subsequently considered acceptable.

Quality of Residential Accommodation

- The proposed houses and associated gardens are considered acceptable with reference to the standards outlined in '*Quality Housing for Sustainable Communities, Best Practice Guidelines*' and the relevant CDDP policies.
- The proposed apartments and associated private amenity spaces are considered acceptable with reference to the standards outlined in '*Sustainable Urban Housing – Design Standards for New Apartments, Guidelines for Planning Authorities, 2020*'.

Residential Amenity

- Regarding existing properties and the Phase 1 properties, no significant impacts arise as the separation distances proposed range from 18-22m (and more in certain cases) for the majority of plots.
- Within the scheme itself, an adequate separation distance range of 20-25m is proposed for the majority of plots.

Phasing

- In response to 3rd Party concerns about a 10-year permission, it is stated that such circumstances would not be uncommon and could be suitably phased as a condition.

Open Space / Landscaping / Playspace

- The proposal for communal open space (17% of site area) exceeds the minimum 15% required under Policy UB-P-13 of the CDDP. Concerns about connections, overlooking, gradient, landscaping and play equipment questioned the quality of space. However, the F.I. response was ultimately deemed acceptable subject to conditions.

Access, Traffic Impact, Traffic Safety & Parking

- The initial report highlights planning authority concerns about the lack of road connections to the north (i.e. Windyhall Road/Northern Network Project); the inadequacy of traffic and modelling surveys; and the capacity of the existing road network to cater for the entire development. The F.I. Response did not adequately address these concerns and, accordingly, it was recommended that 62 no. houses be omitted.
- Other technical matters were raised in the Area Engineer and Road Design Office reports and subsequent FI Request, including the following:
 - proposals for Bus Shelters, Bus Stops, and lay-bys;
 - details of roads, footpaths, cycle paths, surfacing, etc., to comply with DMURS & the National Cycle Manual standards;
 - retaining wall details;
 - detail on vehicular access points and visibility splays;

- auto track analysis for refuse vehicles;
 - A Road Safety Audit Stage 1/2;
 - Details of public lighting;
 - Further information on drainage and the proposed attenuation tank;
 - Further details of manholes;
 - Slip analysis report;
 - Alternative drainage strategy;
 - Maintenance plan for attenuation tank;
 - Calculation of the Greenfield runoff rates.
- Following the F.I. Response, it was deemed that the technical matters were satisfactorily addressed subject to conditions.
 - The development meets the minimum parking requirement of 2 spaces per dwelling and 1.5 space per 2-bed apartment. Whilst a lower standard of parking is more desirable, the PA notes the limited public transport options available.

Public Health

- The proposal seeks to connect to the existing public water mains and foul sewer subject to connection and capacity agreements with Uisce Eireann. As such, all related matters shall be conditioned appropriately.
- The Phase 2 storm drainage and attenuation system has been designed to be accommodated entirely within the Phase 2 site and to be piped into the public drainage system on the Grange Road, with the exception of Plots 1-12 which would connect to the Phase 1 piped foul and surface water services by gravity.
- Area Road Engineers and the Flood Relief Unit had concerns regarding the technical detail of the proposed attenuation strategy, and in particular the proposed use of one single attenuation tank for such a large site, within which there are clear topography constraints. The FI Response allows for the use of 4 smaller attenuation tanks throughout the site and proposals were deemed acceptable subject to conditions. The rationale provided for not using SuDS was noted and considered reasonable in this instance.

Archaeology

- The Archaeological Desk-based Assessment (Cultural Heritage Chapter of the EIAR) is noted. As a result, there will be no direct construction phase impacts on the recorded archaeological, architectural cultural heritage resource. On site monitoring can be conditioned in light of the scale of excavation proposed.

Flooding

- The application does not trigger a requirement for Flood Risk Assessment. However, the final details of the drainage measures (as outlined previously) will inform the likely impact in terms of onsite attenuation and preventing displacement downstream.

Appropriate Assessment (AA) / Ecology

- An attached AA Screening Report concludes that full Appropriate Assessment is not required as it can be excluded on the basis of objective scientific information that the proposed development individually or in combination with other plans/projects will have a significant effect on Natura 2000 sites.
- Third-party concerns about impacts on the Common Frog are noted but there is no evidence of the species and proposed landscaping will enhance biodiversity.
- Third-party concerns regarding the potential loss of Bats are also noted. However, the planning authority concurs with the EIAR findings that no significant harm arises in relation to impacts on bats or bat roosting.

Environmental Impact Assessment (EIA)

- The initial planner's report considered that the EIAR identifies the main significant direct, indirect and cumulative effects of the proposed development on the environment and outlines how the potential impacts would be primarily mitigated by environment management measures and/or mitigation measures. Subject to such measures, and the series of Further Detail sought, it was of the view that the development will not result in any residual significant long term negative impacts on the environment. However, it highlighted that outstanding information arises with respect to traffic impact (climate) and drainage impact (water).

- The report outlines satisfaction that the methodology and information contained in the EIAR complies with the relevant Articles and Annexes of EU Directive 2014 but considers that reasoned conclusions cannot be drawn until further detail is submitted.
- Following the receipt of F.I., the subsequent Planner's report and the Chief Executive's Order do not address EIA any further.

Contributions

- A special development charge is applicable to assist in the delivery of the Northern Strategic Link. In this regard, it is noted that it was decided phase 1 of the scheme introduced a charge of €5000 per dwelling ($€5,000 \times 126 = €630,000$). It is considered reasonable to attach the same charge to phase 2 as a contribution towards the cost of necessary infrastructure, in the context of the housing market, the contribution expected from other landowners and stakeholders including DCC and developments and the possible funding of the project from central sources.

Conclusion

The second planner's report recommends a grant of permission, and this forms the basis of the DCC decision.

5.2.3. **Other Technical Reports**

National Roads Design Office: Confirms that the application does not affect the progression of any current National Road Project. Advises that any application that impacts a national road must demonstrate compliance with TII standards.

Road Design: The initial report requested further information in relation to:

- footpaths (cycleways if appropriate) in accordance with Design Manual for Urban Roads and Streets (DMURS) & the National Cycle Manual.
- drainage and the proposed attenuation tank.
- clarification of ground retention along Road 1.
- concerns about the lack of road connections to the north (i.e. Windyhall Road/Northern Network Project); the inadequacy of traffic and modelling surveys; and the capacity of the existing road network to cater for the entire development.

The subsequent report on the F.I. response outlines a range of recommendations including:

- provide desirable minimum width cycle facilities in accordance with Table 2.2 of the Cycle Design Manual 2023.
- bus set down areas and pedestrian crossing facilities should also be provided in accordance with the Cycle Design Manual 2023.
- proposals for improvements at junctions and surrounding roads in accordance with items raised in the Traffic Impact Assessment.
- Special Development charge shall be provided in accordance with those charges applied to adjacent developments. Said charges shall contribute to the construction/upgrade and delivery of the Northern Network Project.
- A Road Safety Audit Stage 1&2 should be carried out and a further Stage 3 RSA should be carried out if works are substantially complete.

Area Roads: The initial report requests further information on a range of issues concerning impacts on the existing and proposed road network, drainage, and retaining walls (as previously outlined in sections 5.2.1 and 5.2.2 of this report). There was no subsequent report on the FI response.

Building Control: All works to be carried out in accordance with applicable legislation.

5.3. **Prescribed Bodies**

Uisce Eireann: The initial submission requested further engagement with UE with a view to obtaining a Statement of Design Acceptance. The subsequent submission outlined that there were no objections subject to conditions.

Loughs Agency: No comment as the development falls outside the geographical jurisdiction.

TII: Relies on the Planning Authority to Abide by official policy. The development shall be undertaken in accordance with the TTA and RSA.

Inland Fisheries Ireland: Highlights that the Swilly River, which is hydrologically connected to the site via the Sprack Burn (River Waterbody Code IE_NW_39S020300) provides important habitat and spawning habitat for various

species of freshwater fish and macroinvertebrates. It is of paramount importance that water quality in-stream and the riparian habitat is maintained throughout the life span of this project. It recommends a range of measures to protect water quality. It also highlights hydrological connectivity to the Lough Swilly SAC/ SPA (Site Code: 004075/ 002287) and advises that National Parks and Wildlife are consulted in relation to the requirement for Appropriate Assessment.

5.4. **Third Party Observations**

The planning authority received one submission from 'The Old Glencar, Solomon's Grove and Upper Fernhill Residents Associations'. The submission includes copies of two previous submissions made in objection to the Phase 1 development (P.A. Reg. Ref. 22/51204) and submits that these objections are still relevant to the current case. I have considered these issues in my report on ABP Ref. 316160-23. The submission also outlines additional objections/observations on the subject Phase 2 proposal. The issues raised are mainly covered in the grounds of appeal (see section 8.2 of this report). Any additional issues can be summarised as follows:

- Light pollution will have a very detrimental impact on existing residents.
- There is a huge lack of green/playing areas in the area and this deficiency needs to be remedied prior to any further development.

6.0 **Planning History**

- 6.1. **P.A. Reg. Ref: 08/80150 (ABP Ref. PL66.231894):** In May 2010, the Board decided to grant permission for the construction of 418 residential units and creche on the overall site (i.e. Phase 1 and 2). The Letterkenny Town Council decision to grant permission was the subject of third-party appeals.

An application for extension of duration was refused in 2020 (Ref. 20/50607) as the appropriate period in respect of the parent planning permission expired on 31/05/2015.

P.A. Reg. Ref. 22/51204 (ABP Ref. 316160-23): In March 2023, DCC issued a decision to grant permission for the construction of 90 no. dwellings (82 houses and 8 apartments) and creche on the adjoining Phase 1 site. That decision is the subject of a current 3rd Party appeal by ‘The Old Glencar, Solomon’s Grove and Upper Fernhill Residents Associations’.

7.0 Policy Context

7.1. National Policy

7.1.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the reports and submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), Department of Housing, Local Government and Heritage.
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (i.e. ‘the Apartments Guidelines’).
- Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

7.1.2. 'Housing for All - a New Housing Plan for Ireland (September 2021)' is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price
- Built to a high standard in the right place
- Offering a high quality of life.

7.1.3. 'Project Ireland 2040 – The National Planning Framework (NPF)' is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 2 (b) – The regional role of Letterkenny in the North-West and the Letterkenny-Derry cross-border networks will be identified and supported in the relevant Regional Spatial and Economic Strategy.
- NPO 3 (c) aims to deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 5 - Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
- NPO 6 aims to regenerate towns and villages of all types and scale as environmental assets.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.

- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

7.1.4. The Climate Action Plan 2023 implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

7.2. **NWRA Regional Spatial and Economic Strategy (RSES) 2020-2032**

7.2.1. The RSES includes a Letterkenny Regional Growth Centre Strategic Plan which provides a framework for growth and investment to build its function as the primary urban centre in Donegal, as well as its part of a Cross Border Network - the North West Metropolitan City Region. Relevant objectives can be summarised as follows:

RPO 3.7.20 - To grow Letterkenny to a Regional Centre to a minimum of 27,300 residents by 2040.

RPO 3.7.22 - To ensure that at least 40% of all newly developed lands are within the existing built-up urban area of Letterkenny.

RPO 3.7.23 - To provide an additional 3,000 - 4,000 residential units.

RPO 3.7.27 – Outlines a default density rate of 35 dph outside the town centre.

RPO 3.7.29 - To consolidate existing neighbourhoods (including Glencar Scotch, Glencar Irish).

7.3. County Donegal Development Plan 2018-2024

7.3.1. Although the Draft Development Plan 2024-2030 process is nearing completion (CE Report on Material Amendments being prepared at the time of writing), the CDDP 2018-2024 is currently the operative Development Plan for the area. The Plan originally included 'Letterkenny-Specific Policy Content', including a dedicated section (Chapter 12) outlining specific objectives and zoning maps. However, following the adoption of the Letterkenny Plan and Local Transport Plan 2023-2029 (see section 7.4 below) the 'Letterkenny-Specific Policy Content' was deleted from the CDDP through Variation No. 3 (made on 29th January 2024).

Core Strategy

7.3.2. The settlement structure is made up of 3 component parts that are described as 'layers'. Layer 1 consists of Letterkenny alone. Table 2A.6 (Core Strategy Table) outlines a population allocation for Letterkenny (to 2024) of 4,190, resulting in a housing requirement for 1,552 units and 116.4ha housing land. Relevant objectives include the following:

CS-O-4: To support the growth of Letterkenny and its metropolitan area and to make appropriate provision for approximately 4,200 additional persons by 2024.

CS-O-12: To require growth of towns in a sequential manner.

CS-O-13: To promote the integration of land use and transportation so as to encourage modal shift and the development of sustainable transport policies.

Housing

7.3.3. Section 6.2 of the Plan deals with 'Urban Housing' and aims to achieve quality housing to adequately accommodate future growth in a manner that provides for the sequential and sustainable development and regeneration of towns and integration of communities together with the appropriate level of infrastructure and service provision. Relevant provisions can be summarised as follows:

UB-O-1: To distribute the projected need for housing in line with the Core Strategy.

UB-O-4: Promotes quality urban design in new residential development that integrates with existing urban development in a manner to provide for positive places and spaces to contribute to overall social cohesion and quality of life.

UB-P-7: Development proposals for new residential developments shall demonstrate that the design process, layout, specification, finish of the proposed development meets the guidelines set out in key Government publications/ Guidelines.

UB-P-8: Requires that all new residential developments shall be laid out and orientated in order to make use of the landscape characteristics.

UB-P-9: 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.

UB-P-10: 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 abut the site. In addition, housing densities will be considered in the light of all other relevant objectives and policies of this Plan, including the Core Strategy.

UB-P-11: Provide a mixture of house types and sizes.

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

Development Guidelines and Technical Standards

- 7.3.4. Part B (Appendix 3) aims to ensure the orderly and sustainable development of the County through the setting out of objectives and standards for the management of development. This includes guidelines/standards for ‘general development’, ‘transport’, and ‘parking’.

7.4. Letterkenny Plan and Local Transport Plan (LPLTP) 2023-2029

- 7.4.1. The LPLTP was formally made on 13th November 2023 and came into effect from 3rd January 2024. Part A comprises ‘Land Use Planning Policies’ while Part B outlines the ‘Local Transport Plan’.

Part A – Land Use Planning Policies

- 7.4.2. Chapter 5 outlines the ‘Development Strategy and Consolidation’ for a ‘Compact Letterkenny’ based around the key spatial components of the central business

district. It highlights significant remaining development capacity within and on the fringes of the core area.

7.4.3. Chapter 6 deals with 'Strategic Infrastructure Deficits', including the provision of community facilities in the 'Glencar and Environs' area.

7.4.4. Chapter 7 outlines the Land Use Zoning Objectives. The appeal site is zoned 'Primarily Residential', the objective for which is to 'To reserve land primarily for residential development'. A footnote on this objective states that 'Alternative uses may be considered in accordance with the land-use zoning matrix set out in Table 7.2'. 'Residential' uses are 'Acceptable in Principle' as per the zoning matrix.

7.4.5. Chapter 10 'Housing' identifies a shortfall of c. 1000 housing completions during the 2016-2022 period and outlines the need for 2300 residential units over the Plan period. It highlights the need for 'additional provision of housing lands' to facilitate a wide range of housing opportunities. Relevant provisions can be summarised as follows:

LK-H-O-1: To ensure that an appropriate quantum and mix of housing types, tenures, densities and sizes is provided in suitable locations.

LK-H-O-2: To secure the provision of all necessary infrastructure commensurate with the needs of new residential development.

LK-H-P-2: To determine appropriate residential densities having regard to all relevant departmental guidelines, the provisions of Circular Letter: NRUP 02/2021, the specific nature of the development proposed and the site location and context.

LK-H-P-8: To prioritise and facilitate walking, cycling, and public transport and provide connections to existing facilities and public transport nodes.

7.4.6. Section 10.6 outlines 'Site Specific Housing Policies'. The appeal site is part of a larger 'primarily residential' zone identified as PR6 (24.46ha). The site-specific policies for PR6 are outlined in Policy LK-H-P-9e and can be summarised as follows:

- (i) Provide multiple points of vehicular access to the subject lands; via Dr. McGinley Road (L-2164-1), the Grange Road (L-1174-1) and/or the Northern Network Project.

- (ii) Realign/reconfigure Dr. McGinley Road (L-2164-1) to the satisfaction of the planning authority, in order to provide adequate capacity for additional traffic at this location.
- (iii) Reserve approximately 1 hectare of the site for the provision of a playing pitch and associated facilities. The location of the lands shall, inter alia, be such that it would be easily accessible and would benefit from passive supervision from adjacent development.

7.4.7. Section 10.8 deals with ‘Developments in Glencar and the Wider Vicinity’. It recognises its dense population and potential to become a thriving, edge of centre neighbourhood. However, it highlights the need to not exacerbate significant traffic congestion at peak times and plans to ease traffic congestion via active travel measures and roads-based initiatives such as the key proposal for a Northern Relief Road. For these reasons, the Council will require the payment of a financial contribution in respect of developments in the Glencar area and wider vicinity that will stand to benefit from the delivery of the Northern Relief Road, thereby ensuring that the necessary road infrastructure is delivered to support additional development on the northern side of the town.

7.4.8. Chapter 14 (s.14.2) highlights that Glencar is lacking in terms of certain community and recreational facilities. Action GC-A-1 is to explore all options and potential funding and delivery mechanisms, (including but not limited to the use of planning conditions and development contributions) to secure the provision of appropriate community facilities for the Glencar area commensurate with levels of new residential development, to include:

- i. Re-imagining of Ballyboe Park, including a children’s play-park;
- ii. Provision of a football pitch and associated ancillary area sufficient to meet local league standards;
- iii. Provision of a community building that would accommodate changing rooms for the football pitch and space for community/youth gatherings/events;
- iv. (a) Development of a detailed Active Travel (walking and cycling) action plan for the broader Glencar/Long Lane area, with e.g. links down to schools on College Road also incorporated;

(b) Development of the relevant section of the key active travel link from Glencar to Long Lane to Windyhall.

Part B – Local Transport Plan

- 7.4.9. This plan acknowledges how national and regional planning policy strongly advocates compact growth to facilitate and promote liveable compact towns where most destinations and services can be readily accessed, preferably by way of sustainable and or active travel infrastructure. To align with policy, the resulting strategy is set out under five specific networks – walking/pedestrian; cycle; public transport; town centre; and Strategic Roads.
- 7.4.10. The Walking Strategy acknowledges that the Glencar area contains little by way of walking (or cycling) infrastructure and the car-dominated nature of work journeys (82%). It aims for key 'northwest area connections improvements' along The Grange (NW1) and through the application sites Phase 1 & 2 (NW3). Improvements for the wider area are also proposed through the Northern Network Project (SM8) and Circular Road (IC2).
- 7.4.11. The Cycling Strategy is based largely on the potential cycling network for Letterkenny identified in the NTA's 'CycleConnects' document. This includes secondary routes along The Grange and within the application site (Phases 1 and 2), as well as primary routes along Glencar Road and Circular Road. An Interurban route is identified along Windhall Road to the north of the site.
- 7.4.12. The Public Transport Strategy refers to an emerging preferred bus service route along The Grange (to the west) and the Northern Network Project (to the north).
- 7.4.13. The Strategic Roads Strategy supports the Northern Network Project and includes an indicative route on the Land Use Zoning Map. The horizon for the development of the Northern Network Project is anticipated in the short to medium term in tandem with anticipated private development in the area.

8.0 The Appeals

8.1. First-Party Appeal

8.1.1. The applicant has appealed condition Nos. 2 and 35 of the DCC decision to grant permission.

Appeal of Condition no. 2

8.1.2. As previously outlined, this condition requires the omission of 62 no. dwellings at the northern end of the site as follows:

2. (a) Dwelling no's. 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113/114, 115/116, 117, 118, 119, 120, 121/122, 123/124, 125/126, 127/128, 129, 130, 131, 132, 133, 134, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188 shall be omitted from the development. No development shall take place on the sites of the above-mentioned dwellings without a further grant of planning permission.

(b) Prior to the commencement of development herein permitted a revised site layout at a scale of 1:500 illustrating the omission of dwelling no's. detailed in Condition No. 2 (a) above shall be submitted for the written agreement of the Planning Authority.

(c) The development shall thereafter proceed in strict conformity with the agreed written details.

Reason: To define the permission.

8.1.3. The applicant contends that there is no sound or reasonable basis to omit the houses and the grounds of appeal can be summarised as follows:

- There is no specific objective or policy in the LPLTP 2023-2029 to provide the Northern Relief Road.
- The appellant has been unsuccessful in his attempts to acquire the lands to provide the access.
- In order to address DCC reservations about the receiving road capacity, the applicant commissioned a Traffic Impact Assessment (TIA) as part of the EIAR.

This was updated in the F.I. response to reflect current (post-COVID) traffic levels in the area. The TIA concluded that operational capacity was achievable for both Phases 1 and 2.

- It is reasonable to conclude that the reason for the condition relates to a perceived inadequate road network capacity. However, unlike the applicant's assessments, which were available for the benefit of DCC considerations, the DCC opinion was not based on a scientific appraisal but rather on local opinions.
- The DCC objectives regarding the delivery of the Northern Relief Road and the conversion of the Old Glencar Road/Grange Road to a multi-modal transport corridor are noted, but these aspirations are insufficient to reach a conclusion to reduce the scale of the proposed development.
- The DCC approach is more focused on the development of the Northern Relief Road than on the provision of much needed housing for Letterkenny.

Appeal of Condition no. 35

- 8.1.4. As previously outlined, this condition requires the payment of a special development contribution as follows:

35. The applicant (or person at the relevant time entitled to the benefit of the permission) shall pay the sum of €630,000 (six hundred and thirty thousand euros) to the Planning Authority as a special contribution under Section 48 (2)(c) of the Planning and Development Act 2000 in respect of part completion of Northern Strategic Link Road (Windyhall Road) which will facilitate the development.

This contribution shall be paid prior to the commencement of the development or in such phased payments as the Planning Authority may facilitate.

Where the works in question :-

- (i) Are not commenced within five years from the date of payment to the Authority of the contribution, or final instalment thereof; or*
- (ii) Have commenced, but have not been completed within 7 years of the date of payment to the Authority of the contribution or final instalment thereof;*
or

(iii) *Where the Local Authority decides not to proceed with the proposed works or part thereof, the contribution shall be refunded to the applicant together with any interest that may have accrued over the period while held by the Local Authority. Where a Local Authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion of those works, which have been carried out.*

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the Planning Authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

8.1.5. The grounds of appeal can be summarised as follows:

- The contribution is unwarranted as the identified works do not benefit very specific requirements for the proposed development as required under Section 48(2)(c) of the Act.
- The application addressed all the concerns raised by DCC in relation to the capacity of the road network through the completion of a TIA as part of the EIAR, which, as previously outlined, demonstrates that operational capacity was achievable for both Phases 1 and 2. This is the only scientific evidence available as the applicant is not aware of any such studies carried out by/on behalf of DCC.
- The Northern Relief Road project has been an objective of past Letterkenny Town Plans, including the Letterkenny & Environs Plan 2003-2009, the Letterkenny & Environs Plan 2009-2015, and the Letterkenny Plan forming part of the Donegal County Development Plan 2018-24. At no time during the lifetime of these Town Plans since 2003, has the LPA included development contributions from developers for the construction of this strategic road.
- Contributions for the Northern Strategic Relief Road should have been adopted in a Supplementary Development Contribution Scheme, under Section 49 of the P&D Act 2000, following the adoption of the County Donegal and the then Letterkenny Development Contribution Schemes. The imposition of the contribution as a Special Charge should only have been applied in circumstances where the relevant infrastructure/works were planned or were carried out, after

the adoption of the Development Contribution Schemes for County Donegal and/or Letterkenny. This was clearly not the case as the scheme has been acknowledged back as far as 2003.

- The applicant's lands are over 200m south of the proposed Northern Relief Road and he has failed to acquire an access from his lands to the proposed road. The traffic route from the entrance to his lands to the Windyhall Road, which represents the location of the Northern Relief Road, is circuitous and would not be attractive to traffic travelling from the development to the town centre. DCC has confirmed in its LRD Opinion that traffic congestion at the Glencar junction is very congested during the morning "school run" time but accepts that at other times of the day the flow is 'generally good'. As such, the appellant does not consider that the development of the Northern Relief Road does not (*sic*) benefit very specific requirements for the proposed development.

8.2. Third-Party Appeal

8.2.1. The DCC decision to grant permission has been appealed by The Old Glencar, Solomon's Grove and Upper Fernhill Residents Associations. The appeal refers to the points raised in the original objection to DCC (see section 5.4 of this report). It also refers to their objection to the Phase 1 development (ABP Ref. 316160) which I have considered in the accompanying report on that case.

8.2.2. The grounds of appeal can be summarised as follows:

- The site is in the middle of a mature residential area that is already overdeveloped and lacks the necessary infrastructure to support this level of development. This was recognised in the Draft LPLTP 2023-2029, which proposed a 'Strategic Residential Reserve' (SRR) zoning to prevent development of this nature. However, the SRR zoning was dropped in the final plan without any consultation/transparency, and the Board is requested to investigate the methodology employed.
- The proposed 10-year timeframe is totally unacceptable as residents would have to tolerate the inconvenience of major development, including noise, dirt, dust, and construction traffic, over such an extended period. The significant number of houses in the area affected by Mica and scheduled for demolition / remediation / reconstruction would add to inconvenience in the area.

- Traffic congestion is already a major issue due to the close proximity of schools catering for c. 4,000 pupils. There are major concerns about access for emergency services at peak times and traffic congestion in the wider area.
- Phase 1 of the overall development has now apparently been designated as 100% Social Housing and this was not made fully clear during the application/approval process.
- References to the adjoining road as 'The Grange' are incorrect and should be deleted. The Board is requested to investigate the matter.
- The preservation of wildlife and ecology has been ignored. It would appear that all existing mature trees will be removed. The site is a natural breeding ground for the common frog (the original objection to DCC refers to a wetland area at Entrance 1) and the trees support a lot of bat colonies. These are protected species under Irish and EU legislation. The area also supports a large number of birds and other wildlife.
- The F.I. response constituted a significant change from the original application, including revised house types and layouts. The residents' request for an opportunity to comment on the changes was refused by DCC.
- The initial DCC Planner's Report stated that further assessment was required and the appeal questions how approval could be granted in light of this requirement.
- It is the appellants' understanding that funding for the Northern Relief Road was withdrawn and works will not proceed in the medium-long term. It is being assumed that the road will handle 40-50% of development traffic and yet the proposed infrastructure might not happen. The existing Windyhall Road is limited in terms of width and alignment.
- The town centre is c. 1 mile away and the intervening terrain is very steep. Walking will not be an option for the new residents.
- This is one of the most iconic green sites in the town and is clearly visible from most areas. A development that breaks the skyline and removes wooded areas should not be allowed as it would destroy the green area and would be a blight on the landscape because of its elevation.

8.3. Observations

None.

8.4. Prescribed Bodies

None.

8.5. Planning Authority Response

Response to 1st Party Appeal

- 8.5.1. The response outlines details of the pre-planning discussions and the subsequent LRD Opinion issued by DCC. It highlights the concerns raised about traffic congestion on the road network, particularly the junction of Glencar Rd, Old Glencar Rd/The Grange, and Dr McGinley Rd (further south of the site) at school morning times. This informed the DCC desire for an additional access onto Windyhall Rd to the north, which would deliver on key transport objectives specific to Letterkenny in Part C of the DCDP 2018-2024. The submission refers to Objective LK-T-O-3, which aims to improve traffic congestion throughout the town, and Policy LK-T-P-6, which seeks to upgrade/develop Strategic Relief Roads including the Northern Strategic Relief Corridor encompassing the Windyhall Route (approved by DCC under the 'Part 8' process). However, the Board should note that these provisions have been deleted from the DCDP 2018-2024 through Variation No. 3 (to delete Letterkenny-specific content).
- 8.5.2. The applicant was advised that only 60% of dwellings could be accommodated in the absence of a northern access; that a special development charge would be levied towards the Northern Relief Road; and that the duration of the permission should be for 10 years.
- 8.5.3. Despite an intention to facilitate dual access in the LRD, there was no real tangible proposal to provide it and the DCC assessment concluded that a single access was not sufficient to serve the entire development (Phases 1 and 2).
- 8.5.4. Any new residential development in the area will avail of improved access associated with the Northern Relief Road and the special contribution levied is a fair and equitable contribution towards infrastructure that will benefit the development.
- 8.5.5. The Planning Authority is content with its decision and requests the Board to uphold condition nos. 2 and 35.

Response to Third-Party Appeal

8.5.6. The submission outlines that all third-party submissions were considered and refers to the Planner's Reports. Additional comments can be summarised as follows:

- The lands are zoned 'primary residential' in the adopted LPLTP and the OPR has not requested a Ministerial Direction in this regard. The principle of the development is acceptable.
- The impact of defective concrete blocks on the construction industry is not a material consideration. All developments involve an element of disturbance, which would be mitigated to a reasonable level by the conditions of this permission.
- The decision to limit the number of houses approved will address traffic concerns in the area. Any future applications will be considered in light of the delivery status of the Northern Relief Road project.
- The required 'further assessment' was carried out following receipt of further information and the conclusions of the assessment are outlined in section 4 of the Planner's Report.
- The Board is requested to uphold the DCC decision.

8.6 **Other Responses**

Applicant response to third-party appeal

8.6.1. The applicant's response can be summarised as follows:

- The scheme respects the form and densities of adjoining developments and constitutes a sequential consolidation in an area for Targeted Compact Growth as per the LPLTP 2023-2029. The LPLTP confirms that the greatest majority of housing requirements can be accommodated within the broad core area, thus maximising existing and proposed infrastructure.
- The submission outlines the process of zoning the lands as part of the LPLTP; that the OPR considered the zoning to be consistent with the definition of 'compact growth' and infill development; and that the appellants did not make any submission on the matter as part of the plan-making process.

- The planning authority advised on seeking a 10-year permission, which is considered reasonable. The impact of construction activity would not be resolved by a 5-year permission as the applicant would apply to extend the appropriate period under section 42 of the Act.
- The traffic congestion at school times is accepted but considered normal. DCC accepts that traffic flow is 'generally good' at other times. The applicant's assessment has demonstrated adequate capacity and there is no other scientific evidence to the contrary.
- The concerns about potential social housing occupancy in the adjoining development are not relevant.
- The use of 'The Grange' is not a matter for the Board and was not used by the applicant.
- Chapter 6 of the EIAR considers biodiversity and concludes that impacts will be imperceptible post mitigation. An AA Screening Report (for Phases 1 and 2) also conclude that the possibility of significant effects on Natura 2000 sites can be excluded.
- The Planning Authority considered the further information response and concluded that it did not constitute significant additional information.
- The appeal is vague in relation to the requirement for further assessment. However, a very comprehensive application was submitted, and no significant assessments have been excluded.
- The application demonstrates that the existing road network capacity is adequate. Therefore, the anticipated completion of the Northern Relief Road is irrelevant to this development.
- Walking/cycling will form a vital link in the active travel objective for Glencar as outlined in Action GC-A-1 of the LPLTP, which will be complimented by cycling and public transport measures and will be welcomed by the community.
- The development will 'infill' within existing housing developments and will not have an adverse visual impact.

Third-Party response to First-Party appeal

8.6.2. The response to Part 1 of the appeal (i.e. condition no. 2 – omission of 62 no. houses) can be summarised as follows:

- The developer is attempting to gain maximum profit regardless of impacts on the area and environment. Serious concerns are raised about adverse impacts on visual amenity/landscape; residential amenity; overlooking; and the value of existing properties.
- The area is not suited to development of this magnitude and individual housing would be more appropriate as envisaged in the SRR zoning under the Draft LPLTP.
- The road infrastructure is not capable of handling the additional traffic.

8.6.3. The response to Part 2 of the appeal (i.e. condition no. 35 – special development contribution) can be summarised as follows:

- The Old Glencar Rd cannot cater for existing road usage, never mind the proposed development. It is narrow, does not have proper footpath/cycle space in parts, and poses a serious safety risk for all users and emergency services.
- There has been a total turnaround in respect of the usefulness of the Windyhall Link Road. It was originally seen as a key enabler of the proposed development, but it is now suggested that the Old Glencar Rd can accommodate all traffic.
- The appellants' own experience of living in the area would totally refute the applicant's traffic assessment conclusions (by SW Consultancy), and it is apparent that the Planning Authority also has serious reservations about road capacity.
- Nobody in the area witnessed the traffic survey being carried out and it is submitted that a one-day survey could not adequately measure road usage at varying times and areas.
- Traffic impacts will be exacerbated by construction traffic associated with Mica-affected houses.
- The application was split into 2 phases in order to create confusion and circumvent procedures. They appear to be one single connected development.

9.0 Assessment

9.1. Introduction

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

- The principle of the development
- The quantum of development
- Design, layout, and visual impact
- Residential amenities and facilities
- Traffic and Transport
- Condition no. 35 – Special Development Contribution
- Other matters
- Environmental Impact Assessment (See section 10 of this report)
- Appropriate Assessment Screening (See section 11 of this report).

9.2. The principle of the development

Zoning

9.2.1. I note the third-party appeal concerns about the evolving zoning status of the site during the assessment of the application and the making of the decision. However, the LPLTP 2023-2029 is now in effect and the 'Letterkenny-specific' content (including zoning provisions) has been deleted from the County Development Plan. Accordingly, the Board is required to determine the appeal on this basis. And while concerns have been raised about the methodology adopted in the process of zoning the land, the Board will note that this is not a matter that is under its remit.

9.2.2. As previously outlined, the site is zoned as 'Primarily Residential', the objective for which is to 'To reserve land primarily for residential development'. The proposed development involves solely residential development supported by ancillary

amenities and infrastructure, and 'Residential' uses are 'Acceptable in Principle' as per the zoning matrix of the LPLTP. Accordingly, I am satisfied that principle of residential development is acceptable in accordance with the zoning provisions for the site.

Phasing

9.2.3. The third-party appeal also raises concerns about the making of two separate applications for Phase 1 and 2 of the development. While such phasing arrangements are quite common, I would accept that difficulties can arise, particularly when the Phase 2 application has been made in advance of a Board decision on the Phase 1 element. The applications are clearly interlinked in respect of matters such as childcare facilities, access/connections, and for some water services (it is stated that Plots 1-12 of Phase 2 would connect to the Phase 1 piped foul and surface water services).

9.2.4. However, I am now carrying out a concurrent assessment of both appeal cases and I am satisfied that this gives the Board the opportunity to address any issues arising in respect of phasing. Therefore, I would have no objection to the consideration of the two separate appeal cases.

Specific Objectives (Policy LK-H-P-9e)

9.2.5. Part (i) of the policy requires multiple points of vehicular access to the subject lands. Both Phase 1 and Phase 2 proposals include separate entrances onto Old Glencar Road/The Grange. Otherwise, the applicant's landholding does not extend to Dr McGinley Rd (south) or the Northern Network Project. However, the Phase 1 and 2 proposals include roads that would facilitate access to the north and south via adjoining lands within the overall PR6 plot. Therefore, in principle, I am satisfied that the proposal addresses this requirement.

9.2.6. Part (ii) requires developers to realign/reconfigure Dr. McGinley Road in order to provide adequate capacity for additional traffic. As previously outlined, the applicant's land does not extend to this road and therefore could not facilitate any realignment/reconfiguration. It is assumed that this could happen as part of any redevelopment of the southern part of PR6 adjoining the road. Aside from the planning authority's concerns about the Dr McGinley Road Junction and the need for improvements as outlined in condition no. 3 of the DCC decision, I note that DCC did

not raise specific concerns about the need to realign/reconfigure the road at this stage.

- 9.2.7. Part (iii) requires the reservation of approximately 1 hectare of the larger plot (PR6) for the provision of a playing pitch and associated facilities. The applications (Phase 1 and 2) do not include a facility of this scale and description, but the Masterplan submitted with the F.I. Response indicates that '*provision of a playing pitch and associated facilities*' could be accommodated on other lands at the southern end of PR6. However, there is no indication of any agreement for such provision.

Conclusion

- 9.2.8. Having regard to the foregoing, I am satisfied that the proposed residential development is acceptable in principle at this location. I acknowledge that Policy LK-H-P-9e relates to the larger PR6 plot that is outside the full control of the applicant, and that this raises challenges in relation to compliance with the requirements of same. And while a Masterplan agreed by all relevant landowners would bring greater certainty to the matter, I am satisfied that this should not render the current application to be premature.

9.3. **The Quantum of Development**

- 9.3.1. The third-party appeal raises concerns about the magnitude of the development. It submits that the proposal would exacerbate an existing situation of overdevelopment and a lack of infrastructure in the area and recommends that the site should be developed as individual houses on the basis of the Strategic Residential Reserve zoning originally proposed in the Draft LPLTP.
- 9.3.2. On the other hand, the planning authority acknowledges that the proposed density (stated as 20-22dph) is considerably low in the context of regional and national policy/guidelines but considers this reasonable having regard to the challenging site topography and peripheral location of the site. The initial Planner's report had regard to the density recommendations in the Draft Sustainable Residential Development and Compact Settlement Guidelines. And while the final Planner's Report (21st February 2024) and DCC decision was prepared after the Guidelines were finalised and introduced (January 2024), the question of density was not revisited. However, the Board should note that the new Guidelines did not significantly change national policy given that similar density guidelines already existed in the Sustainable

Residential Development Guidelines 2009 (i.e. 35-50 dph on 'outer suburban / 'greenfield' sites' in Large Towns).

- 9.3.3. The applicant's Planning Report calculated density on the basis of a net site area of 8.1ha, resulting in a net density of 23dph. The report compares this to the rate of 27 dph in the previous permission and 20 dph for Letterkenny as set out in the CDP. It acknowledges the density recommendations of the Sustainable Residential Development Guidelines (2009) for a density range of 35-50 dph in such locations but highlights that the flexibility of Circular NRUP 02/2021 does not preclude densities of the less than 30 dph. It contends that the site topography and the need for housing choice are key factors in the proposed density.
- 9.3.4. I have previously outlined the national policy context in the form of the NPF, a key element of which is a commitment towards 'compact growth' which focuses on a more efficient use of land and resources. NPO 35 is to increase residential density in settlements, through a range of measures including infill development schemes, area or site-based regeneration, and increased building heights. At Regional level, this is supported by the Letterkenny Regional Growth Centre Strategic Plan in the NWRA RSES. RPO 3.7.27 outlines a default density rate of 35 units per hectare outside Letterkenny town centre.
- 9.3.5. At local policy level, the CDDP 2018-2024 (Policy UB-P-10) outlines that proposals should demonstrate a housing density appropriate to its context which 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 abut the site. In addition, housing densities will be considered in the light of all other relevant objectives and policies of this Plan, including the Core Strategy. I note the applicant's reference to a density rate of 20 dph for Letterkenny in the CDP. However, I would highlight that this rate is referenced in the context of the Core Strategy and housing land calculations. It is not a policy or objective of the CDP, and the Core Strategy calculations would relate to 'gross' density as opposed to 'net' density. Accordingly, I do not consider that this rate is directly comparable or applicable in the assessment of the application as it is superseded by Policy UB-P-10 of the CDP.

- 9.3.6. More recently, the LPLTP 2023-2029 (Policy LK-H-P-2) aims to determine appropriate residential densities having regard to all relevant departmental guidelines, the provisions of Circular Letter: NRUP 02/2021, the specific nature of the development proposed and the site location and context.
- 9.3.7. Following on from Policy LK-H-P-2, I consider that the appropriate density should be determined having regard to the Compact Settlement Guidelines 2024 (which supersede the 2009 Guidelines and the accompanying Circular NRUP 02/2021). I acknowledge that the Guidelines should be read in conjunction with other Section 28 guidelines. However, section 2.2 outlines that where there are differences between these Guidelines and Section 28 Guidelines issued prior to these guidelines, it is intended that the policies and objectives (including those relating to density) and specific planning policy requirements of these Guidelines will take precedence.
- 9.3.8. Section 3.3 of the Guidelines outlines recommendation for settlements, area types, and density ranges. Based on the criteria therein, I consider that the current case comes within the 'Regional Growth Centre - Suburban/Urban Extension' category. As per Table 3.4, it is a policy and objective of the Guidelines that residential densities in the range 35 dph to 50 dph (net) shall generally be applied at such locations, and that densities of up to 100 dph (net) shall be open for consideration at 'accessible' locations (as defined in Table 3.8).
- 9.3.9. The application has a stated gross density of c. 18dph and a net density of c.23dph. The net density is calculated on the basis of a reduced site size of 8.2ha (gross 10.2ha) which appears to include only those areas which will be developed for housing and directly associated uses based on Appendix A of the (now revoked) Sustainable Residential Development Guidelines (2009). As per section 4.5 of the applicant's Planning Report, this appears to exclude the main access road through the site; the landscaped buffer space adjoining Phase 1; and the childcare facility (proposed as part of Phase 1).
- 9.3.10. Appendix B of the Compact Settlement Guidelines provides updated guidance on measuring residential density. With regard to roads/streets, Table 1 states that the net site area should include 'Local Streets' but not 'Major road/streets such as Arterial Streets and Link Streets' (as defined by Section 3.2.1 DMURS). In my opinion, the proposed road would clearly not constitute an 'arterial street' which is

defined as a major route via which major centres/nodes are connected. Otherwise, 'Link Streets' provide the links to Arterial streets, or between Centres, Neighbourhoods, and/or Suburbs, while 'Local Streets' provide access within communities and to Arterial and Link streets. Table 3.1 of DMURS also outlines that 'Local Distributors' may fall into the category of 'Local street' where they are relatively short in length and simply link a neighbourhood to the broader street network.

- 9.3.11. Having reviewed the LPLTP 2023-2029 and existing/proposed roads in the area, I consider that the road hierarchy would include the Northern Network Project (NNP) as an example of an 'arterial road/street', and the Old Glencar Rd as an example of a 'link road/street' between Circular Rd and the NNP. I consider that the roads within the proposed development would effectively only link the PR6 residential community to the broader road/street network. I come to this conclusion in the context of what I consider to be an 'updesign' of the proposed road as defined in DMURS (see section 9.6 of this report for further details). Accordingly, I consider that the proposed road should be classified as a 'local' road/street and should be included within the net site area.
- 9.3.12. In relation to the landscaped buffer zone, Table 1 (App B of the Guidelines) states that the net site area includes all areas of incidental open space and landscaping. Accordingly, I consider that the landscaped buffer areas should be included. The proposed creche does not form part of the proposed development but I note that Table 1 advises to exclude such community facilities from the net site area.
- 9.3.13. Having regard to the foregoing, I consider that the creche site is the only element that should be omitted from the gross site area of 10.2ha. I estimate that the creche site has an area of c. 0.5ha, thereby resulting in a net site area of c. 9.7ha and a net site density of c. 19dph.
- 9.3.14. It must also be noted that condition no. 2 of the DCC decision would have a significant impact on density. It would involve the omission of 62 units, which would effectively reduce the site area by c. 1.9ha. This would result in the provision of 126 no. units on a reduced net site area of c. 7.8ha, resulting in a net density of c. 16dph.
- 9.3.15. Policy and Objective 3.1 of the Guidelines is that the recommended residential density ranges set out in Section 3.3 are applied within statutory development plans

and in the consideration of individual planning applications, and that these density ranges are refined further at a local level using the criteria set out in Section 3.4 where appropriate. It is clear that the application falls significantly short of applying the applicable range of 35-50dph in all scenarios, including: the applicant's methodology (23dph); my calculation of the proposed scheme (19dph); and my calculation of the permitted scheme (16dph).

9.3.16. Section 3.4 of the Guidelines aims to refine density within the applicable ranges. And while this is somewhat irrelevant given that the current case falls significantly short of the applicable range, I propose to consider the 'refining density' steps in the interest of context and completeness.

9.3.17. 'Step 1' is the consideration of proximity and accessibility to services and public transport. It states that planning authorities should encourage densities at or above the mid-density range at the most central and accessible locations in each area, densities closer to the mid-range at intermediate locations and densities below the mid-density range at peripheral locations. Densities above the ranges are 'open for consideration' at accessible suburban and urban extension locations to the maximum set out in Section 3.3.

9.3.18. I note that the site is in close proximity (c.20m) of a bus stop along the Old Glencar Rd which is served by the No. 963 bus service. However, it does not offer high or reasonably frequent urban services and the site is therefore classified as 'peripheral' in this context. Therefore, I would acknowledge that the Guidelines would not require densities at the higher end of the scale at this location.

9.3.19. 'Step 2' is the consideration of character, amenity and the natural environment to ensure that the quantum and scale of development can integrate successfully into the receiving environment. The relevant criteria are discussed hereunder.

(a) Local Character – This is a suburban area which lacks any distinctive urban grain or architectural language. In terms of the scale and massing of surrounding development, I note that the site mainly adjoins a variety of smaller residential estates with a similarly low density (which I have estimated as c. 17dph). I also acknowledge the challenging topography (steep slopes) within parts of the site. However, consistent with the Guidelines, I do not consider it necessary to replicate the scale and mass of existing buildings,

and I am satisfied that the area has significant capacity to accommodate increased density through site responsive design.

- (b) The area is not sensitive in terms of built or archaeological heritage. I acknowledge that the site is prominent within an elevated landscape. However, the surrounding areas to the east and west have already been developed and I consider that the site has capacity to accommodate increased density as part of a larger 'infill' plot (i.e. PR6).
- (c) The application includes an EIAR and an AA Screening report which consider the potential impacts on protected habitats and species. This is considered further in sections 10 and 11 of this report and I am satisfied that there are no habitat/species considerations that would prevent the achievement of increased density on the site.
- (d) It is acknowledged that the appeal site adjoins existing residential properties to the east and west. However, the proposed development does not include buildings of significant height/scale and the appeal site is large with ample scope to achieve significant separation distances. Accordingly, as is discussed further in section 9.5 of this report, I do not consider that increased density would raise any fundamental concerns in relation to the amenities of residential properties in close proximity, including those relating to privacy, daylight and sunlight, and microclimate.
- (e) The Uisce Éireann submission has not raised any objections in relation to the capacity of water and wastewater services, subject to specified upgrades, diversions, and standard conditions.

Conclusion

- 9.3.20. Having regard to the policy context as discussed, I consider that a density range of 35-50dph applies to this site in accordance with Policy and Objective 3.1 of the Compact Settlements Guidelines 2024, which is supported by Policy LK-H-P-2 of the LPLTP 2023-2029. However, I have calculated that the proposed/permitted density in all scenarios (i.e. 16-23dph) falls significantly short of this range.
- 9.3.21. I acknowledge that the Compact Settlement Guidelines allows for flexibility in the determination of appropriate density, as does Policy UB-P-10 of the Development Plan, which has regard *inter alia* to the density and spatial pattern of development on

lands that abut the site. However, the LPLTP highlights the land use and transportation problems associated with the type of low-density housing that currently exists in the area. And while I consider that a case could be made for maintaining such densities on smaller inconsequential 'infill' sites, it must be noted that the site and the adjoining site (i.e. phase 1 and 2) extend to c. 15.7ha and would effectively set the parameters for the future development of the overall PR6 residential zone. The PR6 zone extends to c. 24ha and is easily the largest and most significant of the 'PR' sites in the LPLTP, accounting for >25% of all land zoned 'Primarily Residential'. It should also be noted that the LPLTP (section 10.2) applies a minimum density of 35dph to such sites in the calculation of housing land/supply. Again, this would represent a 'gross' density and the 'net' density rate would be expected to be higher.

9.3.22. Rather than replicating the recent pattern of low-density suburban housing, it is my view that the appeal site and adjoining lands (i.e. the entire PR6 plot) are of such a scale and significance that necessitates the definition of a new character with increased density in accordance with the provisions of the Compact Settlement Guidelines. And while I acknowledge that the steep-sloping nature of parts of the site is challenging in relation to increased density, I consider that this can be satisfactorily addressed through an appropriate site-responsive design. The previous application (permitted under ABP Ref. 66.231894) was submitted in 2008, prior to the increased focus in recent planning policy on compact sustainable development, and it involved a gross density of 27dph over the cumulative phase 1 and 2 sites. This compares to a gross density of 18dph in the combined phase 1 and 2 as currently proposed.

9.3.23. Having regard to the foregoing, it is my view that the proposed density is unacceptably low and would not meet the local, regional, and national policy aims to achieve compact growth on this strategic residential landbank within a designated Regional Growth Centre.

9.3.24. The Board will note that the issue of density was considered by the planning authority at assessment stage, and that the issue has been raised in the third-party appeal, albeit in the context of a contrary perception of overdevelopment / excessive density. The applicant has also had the opportunity to address density policy and I am satisfied that in this case the national policy position has not been significantly altered by the introduction of the Compact Settlement Guidelines (i.e. the 2009

Guidelines recommended a similar density range). Accordingly, I do not consider that this constitutes a 'new issue'. However, the Board may wish to seek the views of the parties on the matter.

9.4. **Design, Layout and Visual Impact**

- 9.4.1. Following the DCC initial assessment, a Further Information Request was issued which raised concerns about the car-dominated nature of the design; constraints associated with topography and gradient; a lack of connectivity and permeability; and the detailed design of houses. The planning authority subsequently considered that the applicant's response satisfactorily addressed the concerns. And while the third-party appeal raises concerns about the impact of the development on the wider landscape, it does not raise issue with its detailed design and layout.

Design and Layout

- 9.4.2. In terms of quality urban design and placemaking, Policy and Objective 4.2 of the Compact Settlement Guidelines is that the key indicators set out in Section 4.4 are applied in the consideration of individual planning applications. These key indicators are discussed in the following paragraphs.

Sustainable and Efficient Movement

- 9.4.3. The Guidelines support the transition away from private car use and to support ease of movement for pedestrians, cyclists and public transport through the development of well-connected neighbourhoods and a distribution of activities to ensure that day-to-day services and amenities are accessible within walking distance of homes and workplaces.
- 9.4.4. The proposed network consists of a main road through the site which serves other access roads, many of which are of cul-de-sac design. The proposed layout is circuitous and difficult to navigate. It lacks in terms of legibility and walking/cycling options are challenging due to steep gradients and/or circuitous routes. The only pedestrian/cycle link to existing development is to Fairgreen Hill at the eastern perimeter. However, this link is of inadequate width and has not been properly incorporated into the overall layout.
- 9.4.5. The development connects to the Old Glencar Road and proposes that future connection would be facilitated to the north (Northern Network Project) and south

(Circular Road). However, the adjoining land is not within the applicant's control and there does not appear to be any agreement as to how those links would be achieved in the future. The proposed main road includes a number of bus stops, but I consider it unlikely that any future bus service would use this circuitous route. As outlined in the LPLTP, negotiations regarding a future bus service have focused on using the more suitable Old Glencar Road. Accordingly, I consider that the inclusion of bus stops constitutes 'updesigning' as defined in DMURS.

- 9.4.6. It is noted that traffic calming measures are included within the proposed road design. However, these largely consist of 'hard' interventions such as ramps and coloured asphalt. The design is lacking in terms of a holistic design-led approach to a self-regulating street environment / network as recommended in DMURS.
- 9.4.7. The Guidelines outline that the quantum of car parking should be minimised in order to manage travel demand and to ensure that vehicular movement does not impede active modes of travel or have undue prominence within the public realm. However, the proposed development provides the maximum allowable car parking standards of 2 spaces per house in accordance with SPPR3(iii) of the Guidelines. It is acknowledged that this maximum standard is allowable, but it is nonetheless reflective of car-oriented development.
- 9.4.8. Policy and Objective 4.1 of the Guidelines also requires the implementation of the principles, approaches and standards set out in the Design Manual for Urban Roads and Streets (DMURS). It outlines four characteristics that represent the basic measures that should be established in order to create people friendly streets that facilitate more sustainable neighbourhoods. In this regard, I have already outlined my concerns about a lack of 'connectivity'. And in relation to 'enclosure' I consider that the proposed low-density suburban layout misses the opportunity to spatially define streets and create a more intimate and supervised environment. I acknowledge that the proposed houses would generally be oriented towards the road. However, significant and uniform setbacks are proposed to accommodate car parking, which create a monotonous streetscape which lacks 'active frontage'. It is my view that these factors combine to result in a substandard level of 'pedestrian activity/facilities' which lack in intimacy and interest.

9.4.9. In terms of the detailed design of the roads/streets, I note that a 6m 'corner radius' is commonly used throughout the development. This is a maximum standard for junctions between Arterial and/or Link streets. As previously discussed, I consider that the internal roads within the development should generally be treated as 'local' roads and DMURS recommends a much lower maximum corner radius of 1-3m in such cases. Similarly, road carriageway widths are 6 metres throughout the development, while DMURS recommends that 'local' road widths should be 5-5.5m and a maximum of 4.8m where a shared surface is provided. And while, the applicant's FI response attempts to introduce the 'homezone' concept and shared surfaces, I consider that this is largely limited to changes in surface finish which fails to address the more holistic requirement for design-led pedestrian-priority environments.

9.4.10. As previously outlined, the maximum allowable parking standards are proposed. With the exception of a limited number of apartments, parking is generally provided in an on-site arrangement to the front of houses, resulting in an unattractive streetscape and wide streets which lack an appropriate sense of enclosure.

9.4.11. Having regard to the foregoing, I do not consider that the proposed development is in accordance with the principles, approaches and standards of DMURS as required under Policy and Objective 4.1 of the Compact Settlements Guidelines, or that it would promote sustainable and efficient movement in accordance with Policy and Objective 4.2.

Mix and Distribution of Uses

9.4.12. The Guidelines promote a move away from segregated land use areas that have reinforced unsustainable travel in favour of mixed-use neighbourhoods. In areas that are less central, the mix of uses should cater for local services and amenities focused on a hierarchy of local centres that support residential communities and with opportunities for suitable non-residential development throughout.

9.4.13. In this regard, I acknowledge that the site is zoned 'Primarily Residential'. However, other uses can be considered within this zone. The proposed development involves residential use only, while the adjoining Phase 1 proposal includes a creche facility. Cumulatively, it is proposed to provide 278 no. dwellings and one large creche near the entrance off Glencar Road. I consider that an increased mix of non-residential

uses would be welcome in this case, particularly given that the LPLTP highlights a distinct lack of community facilities in the Glencar area. An increased range of uses would certainly add to the vitality and activity levels throughout the development, as well as reducing the need to travel to avail of other services in the wider area.

- 9.4.14. The Guidelines also require a focus on the delivery of innovative housing types that can facilitate compact growth and provide greater housing choice that responds to the needs of single people, families, older people and people with disabilities. I note that local planning policy does not specify a particular mix for apartments or other housing development. However, the proposed development includes a high proportion (78%) of 3 to 4-bed house types. And while 32 'apartments' have been included, the blocks have a similar appearance to the other houses and do not add variety to the appearance of the scheme. An increased proportion of smaller units in the form of standard apartments would be welcomed and this would also make a significant contribution towards achieving an appropriate density. I note that the Phase 1 development includes a high proportion of 1 & 2-bed units (70%) and that the proportion of such units for the cumulative development (Phase 1 & 2) would be improved to c. 34%. However, notwithstanding the range of unit sizes, I would have outstanding concerns in relation to design of the apartment units.

Green and Blue Infrastructure

- 9.4.15. This is described as a strategically planned network of natural and semi-natural areas designed and managed to deliver a wide range of ecosystem services, while also enhancing biodiversity.
- 9.4.16. The site boundaries include a mixture of hedgerows, treelines, and drainage ditches. The predominant habitat on site is 'Wet Grassland', while there are also areas of scrub, mixed broadleaf woodland, and conifer woodland. I would accept that these features are of limited quality in terms of their ecological value and potential for incorporation as part of a wider green/blue network. The application proposes several new open spaces but there is no evidence of inter-linkage as part of an integrated network of open space.
- 9.4.17. As part of the further information request, the applicant was requested to include nature-based solutions as part of the proposed drainage network. The response indicated that such above-ground solutions (including permeable surfacing) were not

practical on account of the steep-sloping gradient on site. Accordingly, the proposed drainage strategy mainly relies on underground attenuation. The Guidelines acknowledge that nature-based solutions at ground level may not be possible in all cases and advises that alternative solutions such as green roofs and walls can be considered. However, the proposed development does not include such alternative options.

Public Open Space

9.4.18. The application outlines a public open space provision of 17,683m², which is stated to be 17.3% of the gross site area and 19.7% of the net site area. However, including Open Space 4 (Soft Surface Play Area), I calculate that the open space amounts to 18,945m², representing c.19% of the gross site area and c.23% of the net site area. This would comfortably exceed the 10-15% range required under Policy and Objective 5.1 of the Guidelines, as well as the minimum 15% requirement for greenfield sites under Policy UB-P-13(a) of the County Development Plan. Indeed, I would accept that a lower minimum requirement of 10% could be applied to this 'large infill site' in accordance with Policy UB-P-13(b).

9.4.19. I have previously outlined concerns about the lack of a co-ordinated and inter-linked open space strategy within the site. Furthermore, there are no linkages to surrounding lands, including the adjoining Phase 1 lands. The main open space (No. 2) extends to 10,698m² but is of limited practical use given its significant and steep gradient. I also note the inclusion of attenuation tanks and associated Gabion Basket retaining structures within the main open spaces (Nos. 2 & 3) and I consider that this detracts from the attractiveness and practicality of these spaces. Overall, I consider that the open space is lacking quality and connectivity as part of an overall integrated strategy.

Responsive Built Form

9.4.20. As previously outlined, I do not consider that there is an established pattern/form of development in this area that would warrant any kind of consistent design response. The site is part of a large strategic residential landbank that should define a new pattern and character of development.

9.4.21. However, it is my view that the proposed development fails to achieve this. It largely replicates rather than enhances the recent pattern of suburban housing and would

not form a legible and coherent urban structure with landmark buildings and features at key nodes and focal points. There is no clear structure to the layout and the proposed building setbacks fail to provide well-defined edges to streets and public spaces to ensure that the public realm is well-overlooked with active frontages. And although the further information response includes improvements to the range of house designs, I consider that the design is still lacking in terms of architectural innovation and variation.

Conclusion

9.4.22. Having regard to the foregoing, I do not consider that the design and layout of the proposed development implements the principles, approaches and standards set out in DMURS (as required under Policy and Objective 4.1 of the Compact Settlement Guidelines), or that it responds positively to the key indicators set out in Section 4.4 of the Guidelines (as required under Policy and Objective 4.2). Accordingly, I do not consider that the development would make an acceptable contribution in terms of quality urban design and placemaking.

9.4.23. The Board will note that issues regarding design and layout were considered by the planning authority at assessment stage, and that the applicant attempted to address the issues in the original application and the further information response. And while I have referenced the principles and indicators cited in the recently introduced Compact Settlement Guidelines, I would highlight that these largely reiterate pre-existing principles outlined in DMURS and the Urban Design Manual accompanying the Sustainable Residential Development Guidelines (2009). Accordingly, I do not consider that this constitutes a 'new issue'. However, the Board may wish to seek the views of the parties on the matter.

Landscape and Visual Impact

9.4.24. Notwithstanding my concerns about the detailed design and layout of the development, the third-party appeal highlights concerns about the visual impact of the development in the wider landscape.

9.4.25. I acknowledge that the site is prominent within an elevated landscape which overlooks the town and surrounding areas to the south. However, the surrounding areas to the east and west have already been developed and the site effectively constitutes an infill portion of the built-up area. The EIAR includes a visual impact

assessment of the development from 12 surrounding viewpoints, including distant viewpoints to the southern side of the town. As will be discussed further in Section 10 (EIA) of this report, I am satisfied that there would be no unacceptable visual impacts in the wider landscape context.

9.5. Residential Amenities and Facilities

9.5.1. This section considers the impacts of the proposed development on the residential amenities of existing properties, as well as the standard of residential amenity and facilities for the prospective occupants of the proposed development.

Impacts on existing properties

- 9.5.2. I note that the third-party submission/appeal raises concerns about a range of impacts on the residential amenity of existing properties.
- 9.5.3. In response to concerns about light pollution, I am satisfied that the proposed development would not include any excessive lighting impacts given the context of the site within an urban area. The details of same could be agreed by condition in the event of a grant of permission.
- 9.5.4. With regard to privacy and overlooking, I note that a row of semi-detached properties is proposed along the western site boundary to the rear of existing dwellings in Solomon's Court. The rear of the proposed dwellings would be setback c.14-16m from the site boundary in the majority of cases, with the shortest setbacks being c. 10m for nos. 87-90. The 'back-to-back' distance from existing properties would be >22m in most cases, with the shortest being c. 19m for house no. 89. There is a significant level difference between existing and proposed properties, and it is proposed to maintain/provide a planted buffer along the entire length of this boundary.
- 9.5.5. At the eastern side of the site house nos. 7-12 also back onto Fairgreen Hill. The rear of the proposed dwellings maintain a minimum of c. 12m from the site boundary and the existing houses are angled so that there is no direct 'back-to-back' arrangements. There are existing trees along this interface, and it is proposed to maintain/provide a screen planting along this boundary.
- 9.5.6. SP1 of the Compact Settlements Guidelines deals with separation distances between opposing windows serving habitable rooms at the rear or side of houses,

duplex units or apartment units above ground floor level. It states that development plans shall not include minimum separation distances that exceed 16 metres and that planning applications shall maintain a separation distance of at least 16 metres. Distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme.

- 9.5.7. Having reviewed the proposed separation distances and site circumstances at the interface between existing and proposed dwellings, I am satisfied that adequate separation distances would be achieved in accordance with SPPR1 and that there would be no unacceptable overlooking or privacy impacts on existing properties.
- 9.5.8. Section 5.3.7 of the Guidelines outlines that a detailed technical assessment in relation to daylight performance is not necessary in all cases. It should be clear from the assessment of architectural drawings (including sections) in the case of low-rise housing with good separation from existing and proposed buildings that undue impact would not arise. Given the low-rise nature of the proposed housing and the separation distances between existing and proposed properties, I am satisfied that a detailed technical assessment is not required in this case.
- 9.5.9. In terms of construction-related impacts, I note that the third-party appeal raises serious concerns regarding the potential disturbance and nuisance effects, particularly over the proposed 10-year timeframe of the permission. I would acknowledge that all construction projects involve a level of disturbance and that this is an inevitable feature of urban development. The associated impacts can be satisfactorily managed through the agreement and implementation of construction management plans. However, I would concur with the third-party concerns about the excessive 10-year period. In my view, there is nothing exceptional about the scale and/or complexity of the proposed development that would warrant a 10-year permission. Therefore, in the event of a grant of permission, I recommend that a standard 5-year permission should apply.
- 9.5.10. Having regard to the foregoing, I do not consider it reasonable or evidential to conclude that there would be any adverse impact on the value of property in the area as a result of the proposed development.

Standards for the proposed dwellings / apartments

- 9.5.11. The planning authority has considered the sizes and dimensions for the proposed houses, apartments and associated private amenity spaces. It has concluded that the proposals are acceptable in accordance with the standards outlined in the County Development Plan, 'Quality Housing for Sustainable Communities, Best Practice Guidelines', and the Apartments Guidelines. Accordingly, I do not propose to revisit these matters entirely.
- 9.5.12. However, I would highlight a concern in relation to private amenity space provision for the proposed apartments. The apartments are arranged in blocks of 4 units comprising 2 ground floor and 2 first floor apartments. It is proposed to provide 4 separate ground level rear gardens to serve the apartments. However, none of the apartments include balconies and the proposed gardens would not be directly accessible from any apartments, even including the ground level units. I do not consider that this satisfactorily addresses the requirements of the Apartments Guidelines and I consider that it would result in a substandard and unacceptable level of residential amenity for the prospective occupants of the apartments.
- 9.5.13. The Board will note that the apartment design and compliance with the Apartments Guidelines was considered by the planning authority at assessment stage. The applicant has also addressed the Guidelines and requirements for private amenity space in the 'Statement of Consistency'. Accordingly, I do not consider that this constitutes a 'new issue'. However, the Board may wish to seek the views of the parties on the matter.

Other facilities

- 9.5.14. Objective HS-O-7 of the County Development Plan includes the achievement of standards set out in the Childcare Guidelines issued by the Department of Environment, Heritage and Local Government. These Guidelines outline that an average of one childcare facility for every 75 dwellings would be appropriate, with a minimum of 20 childcare places. The proposed development does not include a childcare facility but references the facility proposed in Phase 1 of the overall development.
- 9.5.15. Based on the Childcare Facilities Guidelines, the pro rata requirement for the proposed development would be 50 spaces, while the phase 1 development would

have a requirement of 24 spaces, giving a total requirement of 74 spaces. The proposed crèche in Phase 1 and has a capacity of 160 child spaces and is to be provided at the northern side of the access road to the Phase 2 LRD site. It is proposed that it will cater for both the proposed LRD development and the Phase 1 development to the south as well as the wider community due to its significant scale. Accordingly, I am satisfied in principle with regard to childcare provision.

9.5.16. However, as previously outlined in this report, I consider that the proposed development would benefit from a broader range of ancillary community facilities, particularly given the identified lack of such facilities in the Glencar area.

9.6. **Traffic & Transport**

9.6.1. The main traffic/transport issue in this appeal case effectively concerns the capacity of the existing road network to cater for the additional traffic generated by the proposed / permitted development.

9.6.2. In response to the concerns raised by the planning authority in the F.I. Request, the applicant submitted an undated traffic assessment which considers the cumulative impact of Phase 1 and 2 (i.e. 278 no. dwellings and one creche) on the Glencar Road /TheGrange/Dr McGinley Road priority junction. It outlines that a robust assessment has been carried out using trip rates for all dwellings based on 'privately owned housing', despite the lower rates associated with social housing and apartments.

9.6.3. Updated traffic counts were carried out on Wednesday September 13th, 2023, and have been compared to previous surveys of November 2021. And despite the third-party concerns about the veracity of a single-day survey, I am satisfied that this provides a representative account of traffic flows in the area. The AM peak hour figures for the junction in November 2021 and September 2023 were similar (0.73% difference with the previous survey). Flow values for the PM peak hour were slightly higher in 2023.

9.6.4. During the AM peak hour there were 79 PCU arrivals to The Grange and 139 departures. During the PM peak hour there were 159 PCU arrivals and 132 PCU departures. The applicant's assessment considers these hourly figures to be very low overall. Accompanying photographs provide a snapshot of movement and

junction queuing every 15 minutes from 0800-1000 and from 1600-1800. The photographs demonstrate that under normal operating conditions there is free flowing traffic movement at the junction. The assessment submits that occasional delays on other parts of the network are not due to high traffic flows at The Grange.

- 9.6.5. The applicant's assessment uses the TRICS database to quantify trips generated by the proposed developments. All arrival and departure development traffic has been assigned from and to The Grange. During the AM Peak, it calculates that the combined developments would generate 76 no. arrivals and 135 no. departures. In the PM Peak, the combined developments would generate 121 no. arrivals and 79 no. departures.
- 9.6.6. For the purposes of predicting traffic growth, 2025 has been considered as the development 'opening year', 2030 as +5 years, and 2040 +15 years. Growth rates have been applied having regard to the Traffic and Transport Impact Assessment Guidelines and the Travel Demand Projections produced by TII.
- 9.6.7. PICADY is an industry standard priority junction modelling software and has been used to model the operation of the Dr McGinley Rd priority junction. Junction capacity is deemed to be reached when the ratio of flow to capacity (RFC) is 0.85 or above. Beyond this threshold queues and delays are more likely to occur. The 2025 (opening year) and 2040 (+15 years) assessment scenarios have been modelled for the AM and PM peak periods. All Phase 1 and Phase 2 trips have been added and modelled to identify the cumulative impact and all development traffic has been assigned through this priority junction.
- 9.6.8. For the AM Peak, the modelling demonstrates that the busiest traffic stream would be in 2040 'with' the proposed Phase 1 and 2 developments in operation. However, this stream ('B-C') would still have an RFC of only 0.51, well below the 0.85 threshold of operational capacity. For the PM Peak period, the busiest traffic stream would again be in 2040 'with' the proposed Phase 1 and 2 developments. However, this stream ('C-AB') would still have an RFC of only 0.70, well below the 0.85 threshold of operational capacity. The assessment outlines that through traffic remains uninhibited during the AM and PM peak assessment periods, and that any occasional delays are due to slower traffic progression on the Glencar Road rather than capacity issues at The Grange junction.

- 9.6.9. Notwithstanding this assessment, I acknowledge the outstanding third-party concerns about traffic congestion and safety. The planning authority also maintains that the road network cannot accommodate the full extent of the development, resulting in the omission of 62 no. units in their decision to grant permission. I acknowledge that the applicant's assessment has not been challenged by any contrary study of similar scope, but also that the views of local residents and the roads authority must be taken into account. However, I would note that there was no evidence of traffic congestion on The Grange or at the Dr McGinley Junction at the time of my site visit (from c. 08:20 to 09:15 on Friday 10th May 2024), which generally coincided with the AM Peak. I noted that traffic volumes were quite low along The Grange and I did not witness any significant queuing at the Dr McGinley junction.
- 9.6.10. Ultimately, I would highlight that the site has been zoned as part of the finalisation of a land use and transportation plan for Letterkenny (i.e. the LPLTP 2023-2029). And while I have outlined concerns about the car-oriented design of the proposed development and I acknowledge the traffic concerns highlighted by local residents and DCC, I do not consider that a refusal of permission (or the omission of 62 no. units as per condition no. 2) would be warranted on grounds of traffic congestion. The appeal site forms part of a much larger established residential community to the north and west of the town centre, and the applicant's traffic assessment has reasonably demonstrated that the additional traffic would not have any unacceptable impacts on the main junction in the area. Furthermore, the application must be viewed in the context of plans to improve road traffic circulation and increased active travel measures as outlined in the LPLTP, as well as prevailing regional/national policy regarding land use and transportation policy, which will combine to significantly improve traffic conditions in the area. Therefore, I am satisfied that, in principle, residential development of the scale proposed on the overall site (Phase 1 and 2) would be acceptable in terms of traffic and transportation effects.
- 9.6.11. Otherwise, I note that the DCC decision outlines a range of conditions to be agreed, including condition no. 3 which requires the agreement of cycle lanes, bus set down areas, and pedestrian crossing facilities in accordance with the Cycle Design Manual 2023, as well as proposals for improvements at junctions and surrounding roads. In

the event of a grant of permission, I would concur that these and any other outstanding traffic-related issues could be satisfactorily addressed by condition.

9.7. Condition No. 35 – Special Development Contribution

- 9.7.1. The applicant has appealed the application of Condition no. 35, which requires a Section 48 (2)(c) Special Development Contribution payment of €630,000 in respect of part completion of the Northern Strategic Link Road (Windyhall Road). The applicant's grounds of appeal have been outlined in section 8.1 of this report. In response, the planning authority and the third-party have again highlighted the need for the provision of the Northern Strategic Link Road to benefit the proposed development in light of the inadequate capacity of the existing road network.
- 9.7.2. Section 48(2)(c) of the Act allows for special contributions where specific exceptional costs not covered by a development contribution scheme are incurred by a local authority in respect of public infrastructure and facilities which benefit the proposed development. Section 48(12) also outlines that any such condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.
- 9.7.3. Further guidance is contained in the Development Management Guidelines for Planning Authorities (DoEHLG, 2007). This states that it is essential that the basis for the calculation of the special contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it.
- 9.7.4. Having regard to the provisions of s. 48(2)(c) and s. 48(12) of the Act, I note that the condition refers to the '*part completion of Northern Strategic Link Road (Windyhall Road)*'. It would appear that this project has also been referred to variously as 'Northern Relief Road' and the 'Northern Network Project', and I am satisfied that all references relate to the same project. Furthermore, the planning authority has confirmed that a Part 8 application has been approved for the project.

- 9.7.5. Part B of the LPLTP (Section 22.5) confirms that the Northern Network Project is retained in the plan and is anticipated to be delivered in the short to medium term in tandem with anticipated private development in the area. Policy LTP-T-P-5(c) is to *'Protect the corridors and routes and acquire the lands necessary for new roads and road improvement projects as identified in Table 22.2'* (including the Northern Network Project).
- 9.7.6. This approach is supported by section 10.8 of the LPLTP, which outlines that *'the development of the Northern Relief Road is seen as a key proposal to alleviate traffic congestion and improve circulation on the northern side of Letterkenny'*. For these reasons, it confirms that *'the Council will require the payment of a financial contribution in respect of developments in the Glencar area and wider vicinity that will stand to benefit from the delivery of the Northern Relief Road, thereby ensuring that the necessary road infrastructure is delivered to support additional development on the northern side of the town'*.
- 9.7.7. Having regard to the foregoing, I consider that the Northern Strategic Link Road is just one of several strategic road projects identified to facilitate the ongoing planned development of Letterkenny. Furthermore, the LPLTP confirms that developments *'in the Glencar area and wider vicinity'* will stand to benefit from the delivery of the Northern Relief Road. Therefore, given the nature of the project as one of several similar planned projects in the LPLTP, as well as the large geographical area expected to benefit from the project, I am not convinced that this is a specific exceptional infrastructural project under the terms of s. 48(2)(c) of the Act.
- 9.7.8. I would also have concerns about the specifics of the application of the special contribution. Section 48(12) of the Act outlines that any such condition shall specify the 'particular works'. In this regard I note that the condition refers to the 'part completion' of the Northern Strategic Link Road and I do not consider that the nature and scope of this 'part completion' is clear.
- 9.7.9. Moreover, I am not satisfied that the basis for the special contribution has been fully outlined as required under the Development Management Guidelines. The planning authority has applied a charge of €5,000 per dwelling, which is simply based on the same charge being applied in the decision for the Phase 1 application. Having reviewed the calculation applied under the Phase 1 decision, I note that the DCC

Roads report (25th April 2023) recommended a contribution of €10,000 per dwelling. This recommendation was not supported by details of the nature/scope of works, the expenditure involved and the basis for the calculation, or how it was apportioned to the proposed development. Following further discussions between the DCC planning and roads sections, the planner's report ultimately recommended a reduced charge of €5,000 per dwelling based on the '*deliverability of the dwellings in the current climate*'. Again, there was no detailed breakdown of the overall costs and how they were apportioned to the proposed development.

9.7.10. In conclusion, I would concur with the applicant's suggestion that the matter would be better addressed via a Section 49 Supplementary Contribution Scheme for the project and the associated lands. I am not satisfied that specific exceptional costs have been demonstrated under s.48(2)(c) of the Act; that the particular works have been adequately specified in accordance with s.48(12) of the Act; or that the basis for the calculation of the special contribution has been adequately explained in accordance with the Development Management Guidelines. Therefore, in the event of a grant of permission, I do not recommend that condition no. 35 should be applied.

9.8. Other Matters

9.8.1. The third-party appeal raises procedural concerns about the DCC decision. It contends that the further information response contained 'significant' information and revisions and that there should have been an opportunity to comment on same. This is an operational matter for the planning authority, and I am satisfied that the appeal process has afforded the opportunity to make any such observations. The appeal also contends that the DCC decision was made in the absence of an identified need for 'further assessment'. Again, this is a matter for the planning authority. I am satisfied that it had the opportunity for further assessment through the further information response and the conditions of the decision, and that the project has been further assessed in the appeal process.

9.8.2. The third-party appeal has also objected to referring to the adjoining road as 'The Grange' and has requested that the Board investigates the matter. The Board will note that it has no role in this matter. Otherwise, I acknowledge the differing references to the road name, but I do not consider that this has adversely affected

opportunities to participate in the process or the assessment of the application and appeal.

- 9.8.3. I note the third-party contention that the Phase 1 development is intended as entirely social housing. Having reviewed the Phase 1 application, I note that there are indications on file regarding a potential agreement with DCC to deliver the proposed development as a 'turnkey' social housing project. However, there is no confirmation of any such arrangement and the case is being assessed as a private development. This is consistent with the DCC approach.

9.9. **Planning Assessment Conclusion**

- 9.9.1. Having regard to the foregoing assessment, I conclude that the residential development of the site and the associated impacts, including traffic, would be acceptable in accordance with the proper planning and sustainable development of the area. However, I have highlighted significant concerns regarding the low-density nature of the proposal, as well as its detailed design and layout. And while the Board may wish to seek the views of the parties on these matters, it is my view that the issues are of such fundamental and significant importance that they could only be resolved through a new application.

10.0 **Environmental Impact Assessment**

10.1. **Statutory Provisions**

- 10.1.1. The proposed development involves the construction of 188 no. residential units and all associated site works and services. The site has a stated gross area of 10.2 hectares (net area 8.1 ha). Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended, provides that an Environmental Impact Assessment (EIA) is required for projects that involve:

i) Construction of more than 500 dwelling units

iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

10.1.2. The proposal (188 no. units) does not exceed 500 units and would not be a class of development described at 10(b)(i). It is an urban development project within the built-up area but not within a 'business district'. Therefore, the applicant has submitted an EIAR on the basis that the gross site area (10.2ha) would exceed the 10ha threshold outlined in sub-section (iv) above.

10.2. EIA Structure

10.2.1. This section of the report comprises the environmental impact assessment of the proposed development in accordance with the Planning and Development Act 2000 (as amended) and the associated Regulations, which incorporate the European directives on environmental impact assessment (Directive 2011/92/EU as amended by 2014/52/EU). Section 171 of the Planning and Development Act, 2000 (as amended) defines EIA as:

a. consisting of the preparation of an EIAR by the applicant, the carrying out of consultations, the examination of the EIAR and relevant supplementary information by the Board, the reasoned conclusions of the Board and the integration of the reasoned conclusion into the decision of the Board, and

b. includes an examination, analysis and evaluation, by the Board, that identifies, describes and assesses the likely direct and indirect significant effects of the proposed development on defined environmental parameters and the interaction of these factors, and which includes significant effects arising from the vulnerability of the project to risks of major accidents and/or disasters.

10.2.2. Article 94 of the Planning and Development Regulations, 2001 and associated Schedule 6 set out requirements on the contents of an EIAR.

10.2.3. This EIA section of the report is therefore divided into two sections. The first section assesses compliance with the requirements of Article 94 and Schedule 6 of the Regulations. The second section provides an examination, analysis and evaluation of the development and an assessment of the likely direct and indirect significant effects of it on the following defined environmental parameters, having regard to the EIAR and relevant supplementary information:

- Population and human health,

- biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive,
- land, soil, water, air and climate,
- material assets, cultural heritage and the landscape,
- the interaction between the above factors, and
- the vulnerability of the proposed development to risks of major accidents and/or disasters.

10.2.4. It also provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Boards decision, should they agree with the recommendation made.

10.3. **Issues raised in respect of EIA**

10.3.1. The third-party concerns can be summarised as follows:

- Inadequate infrastructure to serve the proposed development,
- Unacceptable construction-related effects on residential amenity,
- Excessive traffic congestion and traffic safety concerns,
- Inadequate proposals to preserve wildlife and ecology, including the common frog, wetland areas, bats, and birds,
- Adverse impacts on the landscape.

10.3.2. The planning authority received a submission from Inland Fisheries Ireland which highlights the hydrological links to the River Swilly, which provides important habitat and spawning habitat for various species of freshwater fish and macroinvertebrates. It highlights the importance that water quality in-stream and the riparian habitat is maintained. It also highlights hydrological connectivity to the Lough Swilly SAC/SPA and potential requirements for Appropriate Assessment.

10.3.3. The first DCC Planner's Report outlined general satisfaction with the assessment and findings of the EIAR but stated that outstanding information arose with respect to traffic impact (climate) and drainage impact (water). While these matters were addressed in the 'further information' process, there is no evidence of a subsequent 'reasoned conclusion' of the planning authority on EIA.

10.4. **Compliance with the Requirements of Article 94 and Schedule 6 of the Regulations 2001**

10.4.1. The following table outlines my assessment of compliance with the requirements of Article 94 and Schedule 6 of the Regulations.

Article 94 (a) Information to be contained in an EIAR (Schedule 6, paragraph 1)	
Requirement	Assessment
A description of the proposed development comprising information on the site, design, size and other relevant features of the proposed development (including the additional information referred to under section 94(b)).	Section 4 of the EIAR describes the development, including location; the existing site and surrounding environment; the size, design, and duration of the project; and proposed construction methodology. Where relevant, each individual section of the EIAR provides details on use of natural resources and the production of emissions and/or waste. The description is adequate to enable a decision on EIA.
A description of the likely significant effects on the environment of the proposed development (including the additional information referred to under section 94(b)).	Sections 5-15 of the EIAR describe the likely significant direct, indirect, and cumulative effects on the environment, including the factors to be considered under Article 3 of Directive 2014/52/EU. I am satisfied that the assessment of significant effects is comprehensive and robust and enables decision making.
A description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment of the development (including the additional information referred to under section 94(b)).	Each of the individual sections in the EIAR outlines the proposed mitigation and monitoring measures. They include 'designed in' measures and measures to address potential adverse effects identified in technical studies, including a Construction Environmental and Traffic Management Plan. The Mitigation measures comprise standard good practices and site-specific measures and are generally capable of offsetting any significant adverse effects identified in the EIAR.

<p>A description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment (including the additional information referred to under section 94(b).</p>	<p>Section 3 of the EIAR outlines the consideration of alternatives. This includes the 'do nothing scenario', as well as alternative locations, layouts, and design. Alternative processes were not considered due to the nature of the development, and alternative mitigation measures were not considered necessary given that the proposed measures did not predict significant residual impacts. The main reasons for opting for the current proposal have been outlined in relation to environmental factors. I am satisfied, therefore, that the applicant has studied reasonable alternatives and has outlined the main reasons for opting for the current proposal before the Board and in doing so the applicant has taken into account the potential impacts on the environment.</p>
<p>Article 94(b) Additional information, relevant to the specific characteristics of the development and to the environmental features likely to be affected (Schedule 6, Paragraph 2).</p>	
<p>A description of the baseline environment and likely evolution in the absence of the development.</p>	<p>Each of the EIAR sections includes a detailed description of the baseline environment and the assessments consider the absence of the development in the form of a 'do nothing' scenario / option.</p>
<p>A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information, and the main uncertainties involved.</p>	<p>Each of the EIAR sections outline the methodology employed, consultations carried out, desk/field studies carried out, and any difficulties encountered. I am satisfied that the forecasting methods are adequate, as will be discussed throughout this assessment.</p>

<p>A description of the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters which are relevant to it.</p>	<p>This is considered in Section 5 ‘population and human health’ and Section 11 ‘climate’ of the EIAR. It outlines that the site is not located near any Seveso sites and that neither the project nor any other sites would give rise to likely or significant effect that would raise the potential for major accidents or disasters. Having regard to the nature, scale, and location of the project, I consider this to be reasonable.</p>
<p>Article 94 (c) A summary of the information in non-technical language.</p>	<p>This information has been submitted as a separate section of the EIAR (Section 1). I have read this document, and I am satisfied that it is concise and comprehensive and is written in a language that is easily understood by a lay member of the public.</p>
<p>Article 94 (d) Sources used for the description and the assessments used in the report.</p>	<p>The sources used to inform the description, and the assessment of the potential environmental impact are set out in each section, including references. I consider the sources relied upon are appropriate and sufficient.</p>
<p>Article 94 (e) A list of the experts who contributed to the preparation of the report.</p>	<p>A list of contributors for each section is outlined in section 2.11 and details of their competency is demonstrated in 2.12 of the EIAR.</p>

Consultations

10.4.2. The application has been submitted in accordance with the requirements of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) in respect of public notices. Submissions received from statutory bodies and third parties are considered in this report, in advance of decision making. I am satisfied, therefore, that appropriate consultations have been carried out and that third parties have had the opportunity to comment on the proposed development in advance of decision making.

10.4.3. Having regard to the foregoing, I am satisfied that the information contained in the EIAR, and supplementary information provided by the developer is sufficient to comply with article 94 of the Planning and Development Regulations, 2001. Matters of detail are considered in my assessment of likely significant effects, below.

10.5 **Assessment of the likely significant direct and indirect effects**

10.5.1. This section of the report sets out an assessment of the likely environmental effects of the proposed development under the following headings, as set out in Section 171A of the Planning and Development Act 2000, as amended:

- Population and human health.
- Biodiversity, with particular attention to the species and habitats protected under the Habitats and Birds Directives (Directive 92/43/EEC and Directive 2009/147/EC respectively).
- Land, soil, water, air and climate.
- Material assets, cultural heritage and the landscape.
- The interaction between these factors.

10.5.2. In accordance with section 171A of the Act, which defines EIA, this assessment includes an examination, analysis and evaluation of the application documents, including the EIAR and submissions received and identifies, describes and assesses the likely direct and indirect significant effects (including cumulative effects) of the development on these environmental parameters and the interactions of these. Each topic section is therefore structured around the following headings:

- Issues raised in the appeal/application.
- Examination, analysis and evaluation of the EIAR.
- The Assessment: Direct, indirect, and cumulative effects.
- Conclusion: Direct, indirect, and cumulative effects.

10.6 **Population and Human Health**

10.6.1 **Issues Raised**

The third-party appeal raises concerns in relation to adverse impacts on the residential amenities of local residents. At construction stage there are concerns

about disturbance including noise, dirt, dust, and construction traffic over a 10-year period, as well as the cumulative impact of works associated with Mica-affected houses in the area. At operational stage, concerns have been raised about traffic congestion and safety due to the inadequate road network, as well as light pollution, privacy, and property values.

10.6.2. Examination, analysis, and evaluation of the EIAR

Context

Section 5 of the EIAR deals with ‘Population and Human Health’. The assessment is undertaken based on the principal concern that people should experience no significant diminution in any aspect or aspects of “quality of life” as a consequence of the proposed development. It has been carried out in accordance with the 2014 EIA Directive and national guidelines for EIA. The assessment methodology includes a desk-based study of information sources (CSO, OSI, EPA, TII, and DCC) as well as a number of visits to the site and surrounding area. Consultation meetings have been carried out with DCC.

Baseline

Section 5.4 describes the receiving environment, including evidence of strong population trends; an average household size of <2.77 persons; falling unemployment rates; a healthy population, and a range of local amenities/facilities. Section 5.5 describes sensitive receptors as being limited to the adjoining residential properties.

Potential Effects

The potential significant effects of the development, as identified in the EIAR, are summarised in the table below.

Project Phase	Potential Direct, Indirect, and Cumulative Effects
Do Nothing	<ul style="list-style-type: none"> Section 3.4 states that there would be an adverse impact based on a lack of housing delivery.
Construction	<ul style="list-style-type: none"> Short-term employment benefits, as well as associated spending benefits for the local economy.

	<ul style="list-style-type: none"> • Short-term negative impacts for local residents, including water pollution, dust, noise, as well as health and safety impacts for workers.
Operation	<ul style="list-style-type: none"> • The delivery of housing will have a permanent and positive impact. • Future residents will contribute to the local economy. • Long-term negative impacts on health services due to regular overcrowding at Letterkenny Hospital.
Decommissioning	<ul style="list-style-type: none"> • Not examined in the EIAR. I consider this to be reasonable given the nature and lifetime of the project.
Cumulative	<ul style="list-style-type: none"> • The EIAR outlines 3 other relevant developments in the area comprising c. 200 houses (including Phase 1 on the adjoining site). The cumulative effects of these developments are assessed in the technical sections of the EIAR.

Mitigation

Mitigation measures are set out in Section 5.9, which states that measures regarding aspects of human health are outlined in other sections. The measures refer to the control of working hours; appointment of a liaison officer; and completion of a Construction Environmental and Traffic Management Plan (CETMP). An Outline CETMP was submitted with the application.

Residual Effects

The EIAR concludes that there will be no residual effect on the population and human health resource after mitigation measures have been implemented.

10.6.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 5 of the EIAR and all of the associated documentation and submissions on file in respect of population and human health. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key

impacts in respect of likely effects on population and human health, as a consequence of the development have been identified.

I have addressed the third-party concerns in relation to construction-related disturbance in section 9 of this report. I also note that Section 10 of the EIAR considers the issues of 'Noise and Vibration in more detail, supported by an Environmental Noise Report. Noise levels for the current site have been assessed and considered suitable for the planned housing development. Construction noise was also considered and modelled, and with the full implementation of the proposed mitigation measures the proposed development will not cause a significant adverse effect to the noise environment. Construction vibration levels are expected to be well below a level that would cause disturbance to building occupants. For the operational phase, predicted traffic and plant/service noise was not found to be significant.

In general, I consider that the effects would not be significant subject to the agreement of standard construction management measures as proposed. I consider that the proposed 10-year duration of the permission has the potential to cause significant and unwarranted disturbance. However, this could be satisfactorily addressed by a condition limiting the duration of permission (to 5 years) in the event of a grant of permission. I have considered the potential for the identified cumulative effects, including Mica-related construction, and I do not consider that these would result in significant effects.

I have also considered the third-party operational concerns regarding traffic and residential amenity in section 9 of this report. I do not consider that there would be any significant effects in relation light pollution, privacy, or property values.

Furthermore, I am satisfied that the development of the site would be acceptable in traffic terms having regard to the planned development of the area as outlined in the LPLTP 2023-2029, including planned road infrastructure improvements and active travel measures. I consider that the completion of the development would provide significant positive effects through the availability of additional housing.

10.6.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Population and Human Health, in particular the EIAR and supplementary information

provided by the applicant, the reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that the main significant direct, indirect, and cumulative effects on Population and Human Health are, and will be mitigated as follows:

- Construction related disturbance including noise, dust, dirt, and traffic over a potential 10-year period, which would be mitigated in the event of a grant of permission by construction management measures and the inclusion of a condition restricting the duration of the permission to 5 years.
- Positive socioeconomic effects through the availability of additional housing when complete.

10.7. Biodiversity

10.7.1. Issues Raised

The third-party submissions raise concerns about inadequate proposals to preserve wildlife and ecology, including the common frog, wetland areas, bats, and birds. A submission from Inland Fisheries Ireland also highlights the hydrological links to the River Swilly, which provides important habitat and spawning habitat for various species of freshwater fish and macroinvertebrates. It highlights the importance that water quality in-stream and the riparian habitat is maintained. It also highlights hydrological connectivity to the Lough Swilly SAC/SPA and potential requirements for Appropriate Assessment.

10.7.2. Examination, analysis, and evaluation of the EIAR

Context

Section 6 of the EIAR deals with 'Biodiversity', including species and habitats protected under the Habitats Directive and the Birds Directive. Section 6.2 acknowledges the requirement for ecological impact assessment in accordance with national and European legislation. Section 6.3 outlines a comprehensive range of relevant guidelines considered. The assessment methodology includes a desk-based study of information sources, including EPA, DCC, NPWS, IFI, NBDC, and Geohive.ie. Field studies included the following:

- Multiple multidisciplinary site walkovers - August 2022 – April 2023.

- Habitat and Botanical Surveys – August 2022.
- Badger Survey – February 2023
- Bat Surveys – ‘Tree survey’ and ‘emergence and activity survey’ in April 2023.
- Bird Surveys – Multiple surveys over November 2022 – March 2023.
- Amphibian and Reptile Survey – April 2023
- Invasive Species Survey – During several site walkovers.

Baseline

Section 6.6 describes the baseline environment. It acknowledges the susceptibility of the nearest Natura 2000 sites (Lough Swilly SAC and Lough Swilly SPA), which are primarily addressed in the applicant’s AA Screening Report (including comparable implications for Lough Swilly Including Big Isle, Blanket Nook & Inch Lake pNHA).

The desk study (based on Hectad C11 (NBDC) including the site and surrounding area) found protected faunal species including Badger, Bat and Bird Species occur. Invasive species were also recorded, and Salmonberry (*Rubus spectabilis*) was observed during site investigations in and around the subject site. The Common Frog has been recorded within the wider Hectad C11 area.

The subject site falls within the North-western River Basin District, Water Framework Directive (WFD) Catchment 39 Lough Swilly and falls within WFD sub-catchments Swilly_SC_010. Drainage ditches along the site boundaries generally flow in a southern direction via the Sprack Burn to the River Swilly.

The field studies found that the predominant habitat on site is ‘Wet Grassland’, while there are also areas of scrub, mixed broadleaf woodland (southwest corner), and conifer woodland. The badger surveys recorded activity on site. Potential setts at the northern end of the site were deemed inactive but setts near the western boundary were deemed active. I noted another sett on the day of my inspection but that was located in a central part of the Phase 1 site to the south.

Tree inspections did not reveal any signs of bats but a small number of trees near the western boundary contained suitable roosting features. The bat emergence and activity survey (April 2023) recorded three common bat species (Common Pipistrelle, Leisler’s bat and Soprano Pipistrelle) with a low level of activity centred on the

woodland area to the west of the site. The suitability of trees due for removal to support roosting bats is primarily considered negligible/low. The site is classified as higher local importance for bats in general.

Bird surveys found several species and that the site boundaries provide good cover, foraging and habitat connectivity. No protected bird species were noted and vegetation around the site boundaries will be retained.

Based on the foregoing, Table 6.13 of the EIAR sets out the Key Ecological Receptors (KERs).

Potential Effects

The potential significant effects of the development, as identified in the EIAR, are summarised in the table below. Regarding Natura 2000 sites, it should be noted that the EIAR refers to the AA Screening Report and I will deal with this separately in section 11 of this report.

Project Phase	Potential Direct, Indirect, and Cumulative Effects
Do Nothing	<ul style="list-style-type: none"> • There would likely be no impact or change if agricultural use continued. • If unmanaged, the site could be taken over by scrub species which could prompt the further spread of invasive species.
Construction	<ul style="list-style-type: none"> • Invasive species threat due to the spread of Salmonberry or the importation of material on site. • Moderate adverse impacts on rivers/streams and sensitive aquatic faunal species as a result of improper water management. • Significant local disruption to birds or other fauna. • Significant local disruption of an active badger sett. • Significant local negative impacts due to the removal of woodland and grassland.
Operation	<ul style="list-style-type: none"> • Moderate adverse impacts on rivers/streams and sensitive aquatic faunal species as a result of indirect discharge to watercourses.

	<ul style="list-style-type: none"> • Significant local negative impacts due to the removal of woodland and grassland. • Moderate adverse impacts associated with increased noise and outdoor lighting.
Decommissioning	<ul style="list-style-type: none"> • Not examined in the EIAR. I consider this to be reasonable given the nature and lifetime of the project.
Cumulative	<ul style="list-style-type: none"> • The EIAR outlines 3 other relevant developments in the area comprising c. 200 houses (including Phase 1 on the adjoining site). • The stormwater network would be linked to Phase 1, but it has been sized and designed to accommodate both phases. • Moderate adverse cumulative impact with Phase 1 due to further loss of habitat, which would represent a slight adverse effect after mitigation.

Mitigation

Mitigation measures are set out throughout Section 6.7 of the EIAR. They generally relate to good standard construction practice and the main measures can be summarised as follows:

- Appointment of an Ecological Clerk of Works (ECoW).
- Salmonberry treated by a licenced/certified professional and good construction site hygiene will be employed to prevent the spread of these species.
- Any imported material will be verified by the ECoW.
- Protection of water quality through the erection of silt fences; the management of overburden; installation of temporary surface water drainage/treatment systems; control of plant/machinery use and material storage near watercourse; emergency response procedures; and strict management of concrete works and other potential pollutants.

- Protection of birds and other fauna through the suitable timing of works; dust/dirt management; material storage; noise reduction measures for plant and vehicles; planting of site boundaries as an acoustic barrier.
- Employment of a Badger specialist to carry out of a pre-construction survey; destroy inactive setts; consult with NPWS regarding a derogation licence (if necessary); and retain and protect the existing woodland area where the active badger sett exists.
- Installation of surface water management measures including attenuation, flow control, and interception, to ensure an appropriate quantity/quality of discharge.
- Pre-construction bat and bird surveys prior to the removal of trees/hedges.
- Areas of retained vegetation to be clearly outlined and protected.
- Vegetation removal to be suitably timed.
- Creation of suitably designed open spaces and landscaped planting.
- Erection of bird and bat boxes throughout the site.
- Lighting proposals to be designed to minimise impacts on bats and other wildlife.

Residual Effects

The EIAR concludes that residual effects will be limited to the loss of c. 75,000m² of grassland habitat and c. 20,000m² of woodland habitat, which represents a slight adverse effect at a site level. It states that the attenuation system has been sized to deal with the additional runoff generated from site stripping so there is no risk of flooding occurring within the site nor in the surrounding environs.

10.7.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 6 of the EIAR and all of the associated documentation and submissions on file in respect of Biodiversity. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on Biodiversity, as a consequence of the development have been identified.

I note the third-party concerns in relation to impacts on wildlife and ecology. I consider that the potential impacts on bats, birds, and other wildlife have been

adequately addressed through 'designed in' mitigation measures comprising the retention of potentially sensitive habitat, as well as the other mitigation measures to ensure that the construction and operation of the development will be suitably designed and managed. I note that the EIAR studies did not identify any records of the Common Frog or wetlands on site, apart from the drainage ditches along the site boundaries which will be suitably protected. This is consistent with my inspection of the site, and I am satisfied that there would be no significant impacts on the Common Frog. It would appear that the applicant's concerns relate to a waterlogged area of the Phase 1 site and will be dealt with in that case.

I have also considered the concerns raised by IFI in relation to the need to protect water quality. I would accept that this has the potential for significant adverse impacts on local water quality, but this has been adequately addressed by the construction stage mitigation measures and the operational surface water drainage system, which will combine to ensure that the quantity or quality of surface water discharge from the development will not be significantly affected. The IFI has recommended a range of measures to protect water quality, and these could be included as conditions in the event of a grant of permission.

10.7.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Biodiversity, in particular the EIAR and supplementary information provided by the applicant, the reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that the main significant direct, indirect, and cumulative effects on Biodiversity are, and will be mitigated as follows:

- Disruption to birds, bats, badgers and other wildlife due to the construction works and the loss of woodland and grassland. This will be mitigated by the employment of good practice construction measures to reduce disruption and by the design of the proposed scheme which will retain and protect important habitats.
- Impacts on water quality and the aquatic environment which will be mitigated by standard good practice construction stage measures and the operational surface water drainage system.

10.8. Land, Soils & Geology

10.8.1. Issues Raised

No specific issues have been raised in relation to land, soils, & geology in the course of the application and appeal.

10.8.2. Examination, analysis, and evaluation of the EIAR

Context

Section 7 of the EIAR deals with 'Land, Soils, and Geology' and focusses on formations and features associated with the soils and geological succession within the study area. It was carried out according to the methodology specified by the EPA and the Institute of Geologists of Ireland guidelines for Geology in Environmental Impact Statements. All available mapping data from the Geological Survey of Ireland (GSI) and EPA was consulted. Site walkovers were completed including the examination of soil trial pits and geological material on site.

Baseline

Section 7.4 describes the existing environment. The site falls steeply to the south and there are drainage ditches along the site boundaries. According to GSI data, a significant portion of the site has bedrock at or near the surface. The remainder of the site is classified as either 'poorly drained mineral soil (mainly acidic)' or 'deep well drained mineral soil (mainly acidic)'. The on-site soil assessment was broadly in line with GSI data.

The area is underlain by Precambrian meta-sedimentary rocks of the Dalradian series which are assigned to the Termon Formation. There are a few outcrops of bedrock on site particularly to the west and north. Most of the outcrops are partially covered with vegetation and conifer plantation.

The nearest County Geological Site is Lough Swilly (IGH site code ND015) located approximately 3 km to the southeast of the application site.

According to EPA mapping, most of the site is classified as an area where about 1 in 10 homes is likely to have high radon levels. The rate is '1 in 5' for the western and northern part of the site.

In terms of Geohazards, there are no karst features in the area; the site is within an area of “Low” and “Inferred Low” landslide susceptibility; and there has been no significant seismic activity.

Potential Effects

The potential significant effects of the development, as identified in the EIAR, are summarised in the table below.

Project Phase	Potential Direct, Indirect, and Cumulative Effects
Do Nothing	<ul style="list-style-type: none"> • None.
Construction	<ul style="list-style-type: none"> • The change of land use and land take will result in a “negative” “significant” and “permanent” impact.
Operation	<ul style="list-style-type: none"> • None identified having regard to the proposed design measures.
Decommissioning	<ul style="list-style-type: none"> • Not examined in the EIAR. I consider this to be reasonable given the nature and lifetime of the project.
Cumulative	<ul style="list-style-type: none"> • The EIAR outlines 3 other relevant developments in the area comprising c. 200 houses (including Phase 1 on the adjoining site). • The land take and loss of soils/geology will result in similar impacts.

Mitigation

Mitigation and monitoring measures are set out in Sections 7.7 – 7.9 of the EIAR.

The construction stage measures generally relate to good standard practice and the main measures can be summarised as follows:

- Preparation of a Construction Environmental Management Plan (CEMP).
- Control and management of imported materials.
- Management of the storage and use of fuels, oils, concrete, plant and vehicles, and other potential pollutants.

- Emergency response measures for accidental spills etc.
- Management of the storage and reuse of soil.
- Routine monitoring and inspection for compliance with the proposed measures.

The operational measures will comprise the ongoing regular monitoring of the SuDs measures.

Residual Effects

The EIAR concludes that residual effects will be limited to the permanent negative effect associated with land loss and loss of soil and geology.

10.8.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 7 of the EIAR and all of the associated documentation and submissions on file in respect of land, soils, and geology. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on land, soils, and geology, as a consequence of the development have been identified.

I note that the EIAR identifies potential "negative" "significant" and "permanent" impacts in relation to the loss of land, soils, and geology, and that there would be similar cumulative impacts associated other developments. However, it concludes that the impacts would not be significant given the low sensitivity/significance of the existing environment. Having regard to the nature of the lands within the zoned and serviced built-up area, I would concur that there would be no significant environmental effects in terms of loss of land, soils, or geology.

10.8.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Land, Soils, and Geology, in particular the EIAR and supplementary information provided by the applicant, the reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development.

10.9. Water

10.9.1. Issues Raised

A submission from Inland Fisheries Ireland highlights the hydrological links to the River Swilly, which provides important habitat and spawning habitat for various species of freshwater fish and macroinvertebrates. It highlights the importance that water quality in-stream and the riparian habitat is maintained. It also highlights hydrological connectivity to the Lough Swilly SAC/SPA and potential requirements for Appropriate Assessment.

10.9.2. Examination, analysis, and evaluation of the EIAR

Context

Section 8 of the EIAR deals with 'Water' and assesses the impact which the proposed development may have on the hydrological and hydrogeological environment. The nature of the potential environmental impacts on surface water and groundwater is based on the EPA Guidelines on information to be included in Environmental Impact Assessment Reports (May 2022), as well as a range of other relevant guidelines.

The assessment methodology includes a desk-based study of information sources, including EPA, GSI, Met Eireann, NPWS, Water Framework Directive Map Viewer, OPW, CFRAM mapping, and DoECLG mapping. The study area is based on IGI Guidelines (min. 2km radius) plus receptors that may be potentially hydraulically connected to the proposed development site.

Baseline

Section 8.4 describes the existing environment. The site falls steeply to the south. There is a small stream along the eastern boundary of the site which is eventually piped some 300m from the site and this watercourse eventually flows into Lough Swilly approximately 1.5 south of the application site. There is also a small open drain flowing towards the southwest corner of the site. From this point surface water is piped underneath the L-1174 into the public stormwater system. There is also a small open shallow drain in the northwest of the site. This drain does not appear to have any well-defined outflow. Drainage from the site empties to the River Swilly via watercourses known as Rodger's Burn and Sprack Burn. The River Swilly is

classified as a transitional waterbody at the point of confluence with both watercourses.

In terms of Regional Hydrogeology and GSI classifications, the aquifer underlying the site ('PI') is classified as a poor aquifer – bedrock which is generally unproductive except for local zones. The underlying groundwater body is the Lough Swilly Groundwater Body and the vulnerability rating of 'Extreme' applies for most of the site, with 'rock at or near surface' for the remainder of the site.

In terms of Hydrology, the site is within the Swilly Water Framework Directive (WFD) Sub catchment (Swilly_SC_0101) and the Swilly WFD River Sub basin (Swilly (Donegal)_010). Two of the outflows from the site has been sampled and analysed, which shows that surface water quality is high.

An examination of the flood maps (floodinfo.ie) for the area show the application site and surrounding area to be at low risk of pluvial, fluvial, or coastal flooding events. The nearest recorded historical flooding to the site is at Letterkenny University Hospital approximately 2 km southeast of the site and at Glencar approximately 1 km southeast of the site.

The WFD waterbody status for river, groundwater and coastal water bodies that have a potential hydraulic connection to the site as recorded by the EPA (2023) is provided in the following table.

Local Waterbody Name	Location from Site	WFD status (2016-2021 period)	WFD 3rd cycle Risk Status
River Waterbodies			
Glencar Scotch Stream	Immediately downstream	Good	Review
Glencar Irish Stream	Immediately downstream	Good	Review
Sprack Burn Tributary	Immediately downstream	Good	Review
River Swilly	Upstream	Good	Review

Transitional Waterbodies			
Swilly Estuary	c. 4.4km downstream	Poor	At Risk
Groundwater Bodies			
Lough Swilly	Underneath Site	Good	Not at Risk

Potential Effects

The potential significant effects of the development, as identified in the EIAR, are summarised in the table below.

Project Phase	Potential Direct, Indirect, and Cumulative Effects
Do Nothing	<ul style="list-style-type: none"> No impact or change to the hydrology or hydrogeology of the proposed development site.
Construction	<ul style="list-style-type: none"> Surface Water Quality Impacts from Suspended Sediment Load during construction phase involving earth movement and site preparation works. Surface Water Quality Impacts from Suspended Sediment Load from stockpiling of material on site. Surface Water and Groundwater Quality Impacts from Hydrocarbon Contamination associated with plant and machinery. Surface Water and Groundwater Quality Impacts from concrete works or other deleterious materials. Surface Water and Groundwater Quality Impacts from wastewater discharged from welfare facilities. Surface Water alteration of catchment flow regime.
Operation	<ul style="list-style-type: none"> Surface Water and Groundwater Quality Impacts from Hydrocarbon Contamination associated with vehicles.

	<ul style="list-style-type: none"> Increased Flood Risk caused by changing the rainfall response characteristics of the site.
Decommissioning	<ul style="list-style-type: none"> Not examined in the EIAR. I consider this to be reasonable given the nature and lifetime of the project.
Cumulative	<ul style="list-style-type: none"> The EIAR outlines 3 other relevant developments in the area comprising c. 200 houses (including Phase 1 on the adjoining site). Based on the provision of stormwater attenuation and mains connection, no cumulative impact is expected.

Mitigation

Mitigation measures are set out throughout Section 8.6 of the EIAR.

The construction stage measures generally relate to good standard practice and the main measures can be summarised as follows:

- Production and implementation of the Construction and Environmental Management Plan (CEMP).
- Works will be managed in accordance with all statutory obligations and regulations and with standard international best practice.
- Robust surface water capture drains leading to temporary settlement pond system with discharge to surface water through silt bags.
- Silt fences to be erected along the banks of watercourses.
- No unauthorised discharge of surface water runoff to ground, drains or watercourses.
- Compliance with 'Guidelines on Protection of Fisheries During Construction Works in and Adjacent to waters', 2016 produced by inland Fisheries Ireland.
- Stockpiles will be suitably arranged and managed.
- Plant, machinery, and refuelling will be suitably managed.
- Emergency response measures.

- Potential pollutants will be suitably stored on site.
- All concrete works will be suitably planned and managed.
- Welfare facilities will be managed in accordance with the CEMP and waste legislation.
- Attenuation tanks and flow controls for surface water will ensure that quantity and rate of water leaving the site will be the same or less than Greenfield runoff rates.

The main operational stage measures can be summarised as follows:

- Installation of an appropriately sized hydrocarbon interceptor prior to stormwater leaving the site and entering the public stormwater system.
- Installation of SuDS; attenuation tank to store excess storm water; and flow will be restricted to greenfield runoff rates using a vortex flow control device.

Residual Effects

The EIAR concludes that there will be no perceptible residual impacts.

10.9.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 8 of the EIAR and all of the associated documentation and submissions on file in respect of 'Water'. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on water, as a consequence of the development have been identified.

I have considered the concerns raised by IFI in relation to the need to protect water quality. I would accept that this has the potential for significant adverse impacts on local water quality, but this has been adequately addressed by the construction stage mitigation measures and the operational surface water drainage system, which will combine to ensure that the quantity or quality of surface water discharge from the development will not be significantly affected. The IFI has recommended a range of measures to protect water quality, and these could be included as conditions in the event of a grant of permission.

10.9.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Water, in particular the EIAR and supplementary information provided by the applicant, the

reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that the main significant direct, indirect, and cumulative effects on Water are, and will be mitigated as follows:

- Impacts on water quality associated with the construction works and the operational surface water discharges, which will be mitigated by standard good practice construction stage measures and the operational surface water drainage system.

10.10. Air

10.10.1. Issues Raised

Submissions associated with the third-party appeal raise concerns about construction-related dust generation and adverse impacts on residential amenity.

10.10.2. Examination, analysis, and evaluation of the EIAR

Context

Section 9 of the EIAR deals with 'Air' and any potential impact of the proposed development and ancillary activities on the receiving air environment. In the absence of established standards for construction sites in Ireland, dust deposition is assessed having regard to the EPA Guideline Document entitled Environmental Management in the Extractive Industries (April 2006); the DoEHLG published 'Quarries & Ancillary Activities: Guideline for Planning Authorities' (2004); and Transport Infrastructure Ireland guidelines (2011). National and European legislation is also considered in relation to air quality regulation.

The assessment methodology involved site walkovers and assessment of site; an air modelling tool; and examination of meteorological factors.

Baseline

Section 9.4 describes the existing environment, including the site location and description. It does not provide any baseline information in relation to air standards.

Potential Effects

The potential significant effects of the development, as identified in the EIAR, are summarised in the table below.

Project Phase	Potential Direct, Indirect, and Cumulative Effects
Do Nothing	<ul style="list-style-type: none"> No impact or change to the existing ambient air quality on site and at nearby sensitive receptors.
Construction	<ul style="list-style-type: none"> Dust deposition. Elevated particulate matter concentrations (PM₁₀ and PM_{2.5}) as a result of dust generating activities. Increased concentrations of airborne particles, volatile organic compounds, nitrogen oxides, and sulphur oxides due to exhaust emissions from diesel powered vehicles and equipment on site (non-road mobile machinery) and vehicles accessing the site.
Operation	<ul style="list-style-type: none"> Traffic-related emissions (VOCs, nitrogen oxides, sulphur dioxides and increased particulate matter concentrations).
Decommissioning	<ul style="list-style-type: none"> Not examined in the EIAR. I consider this to be reasonable given the nature and lifetime of the project.
Cumulative	<ul style="list-style-type: none"> The EIAR outlines 3 other relevant developments in the area comprising c. 200 houses (including Phase 1 on the adjoining site). Air impacts will be similar to the subject application. The traffic impact of Phase 1 has been cumulatively considered with Phase 2

Mitigation

Construction stage mitigation measures are set out in Section 9.7 of the EIAR. The main measures can be summarised as follows:

- Timing of operations optimised in relation to meteorological conditions.
- A water bowser/sprayer will minimise dust during dry and windy conditions.
- Speed restrictions of 15 kph maintained to limit generation of fugitive dust.
- Site roads will be watered, as appropriate, during dry and/or windy conditions.

- Public roads outside the site will be regularly inspected for cleanliness and cleaned as necessary.
- Material handling and storage will minimise exposure to wind.
- Daily inspection to examine dust measures and their effectiveness.
- Sections of the haul route will be swept using a truck mounted vacuum sweeper.
- Wheel washing before leaving the site.

Residual Effects

The EIAR concludes that that there will be no perceptible residual impacts.

10.10.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 9 of the EIAR and all of the associated documentation and submissions on file in respect of 'Air'. While limited information has been provided in relation to the baseline environment, I am satisfied that the key impacts in respect of likely effects on Air, as a consequence of the development have been identified.

As outlined in section 9.6.1 of the EIAR, I note the nature and scale of the construction phase, as well as the meteorological conditions and the sensitivity of receptors in the area (including the third-party concerns). Due to the meteorological conditions, I would accept that dust generation would be naturally suppressed for most of the year. I am also satisfied that the construction mitigation measures will prevent nuisance dust causing adverse impacts at any sensitive receptors, and that emissions from construction vehicles and machinery would not be significant.

Regarding operational traffic-related emissions, I would accept that the worst-case cumulative traffic flow increases for Phases 1 and 2 would be just 7.8% during peak hours. Furthermore, this would be significantly less than the increase of 1000 Light Duty Vehicles to the Annual Average Daily Traffic required to trigger an air quality assessment (Institute of Air Quality Management, 2017). Therefore, I am satisfied that the traffic increase is not likely to produce a significant adverse effect on air quality in the local environment.

10.10.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Air, in particular the EIAR and supplementary information provided by the applicant, the reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development.

10.11. **Climate**

10.11.1. **Issues Raised**

No specific issues have been raised regarding impacts on Climate.

10.11.2. **Examination, analysis, and evaluation of the EIAR**

Context

Section 11 of the EIAR deals with 'Climate' and climate change and takes full cognisance of national and international policy, legislation and commitments. It includes a desk study of the available data from Met Eireann, the EPA, and other bodies which have a responsibility for climate records in Ireland and Europe.

Baseline

Section 11.3.6 describes the existing local and regional climate. It describes the climate of the site as being typical of Ireland's typical maritime climate, with relatively mild and moist winters and cool, cloudy summers. The long-term (1981-2010) average annual precipitation value for Malin Head is 1,076 mm. The long-term average annual mean temperature for Malin Head is 9.8 degrees Celsius. The average hourly wind speed in Donegal experiences significant seasonal variation.

Potential Effects

The potential effects of the development, as identified in the EIAR, are summarised in the table below.

Project Phase	Potential Direct, Indirect, and Cumulative Effects
Do Nothing	<ul style="list-style-type: none">The site would remain as a greenfield site.

Construction	<ul style="list-style-type: none"> • Plant and vehicle emissions. • Loss of vegetation.
Operation	<ul style="list-style-type: none"> • Vehicle emissions likely to contribute to increases in GHG emissions such as CO₂ and NO₂ (Nitrous Oxide). • Building energy will contribute to GHG emissions. • Unplanned events and development vulnerability to flooding, extreme temperatures, and storm events.
Decommissioning	<ul style="list-style-type: none"> • Not examined in the EIAR. I consider this to be reasonable given the nature and lifetime of the project.
Cumulative	<ul style="list-style-type: none"> • The EIAR outlines 3 other relevant developments in the area comprising c. 200 houses (including Phase 1 on the adjoining site). • Climate impacts will be similar to the subject application. The cumulative construction, operational, and unplanned impacts were not deemed to be significant.

Mitigation

Mitigation measures are set out in Section 11.6 of the EIAR. The main measures can be summarised as follows:

- Good operational practice such as switching off unused plant and vehicles.
- All plant and vehicles will be regularly serviced.
- Energy consumption ratings considered when upgrading new vehicles.
- Regular construction energy audits.
- Landscaping plan to offset vegetation loss, increase net biodiversity and increase the carbon capture potential of the site.
- Construction to shut down on 'red' weather warning from Met Eireann.
- Construction stage to include regular checks for structural integrity.

Residual Effects

The EIAR concludes that that there will be no negative residual impacts.

10.11.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 11 of the EIAR and all of the associated documentation and submissions on file in respect of 'Climate'. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on climate, as a consequence of the development have been identified.

As outlined in section 11.5.1 of the EIAR, I note the limited duration and scale of the temporary construction phase, and I would concur that vehicle/plant emissions would have an imperceptible impact on the local micro-climate or the broader macro climate. I am also satisfied that the loss of habitat will be offset with the landscaping plan for the site which will increase biodiversity in the overall site and introduce a tree planting scheme for carbon sequestration.

Regarding operational emissions, I would accept that the worst-case cumulative traffic flow increases for Phases 1 and 2 would be just 7.8% during peak hours. This would be imperceptible in terms of overall national GHG emission estimates and Ireland's obligations on climate change. In terms of building energy and sustainability, the proposed development will meet the principles of the Government's 'National Climate Change Policy' and the NZEB criteria as set out in the Part L Regulations 2021. This will maximise the reduction in Carbon Dioxide (CO₂) emissions, thus demonstrating commitment to Climate Change obligations.

With regard to unplanned events, I am satisfied that a flood risk assessment has demonstrated that the site is not at risk of flooding and suitable drainage proposals will be included. Other extreme weather events have been satisfactorily addressed by the proposed mitigation measures.

10.11.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Climate, in particular the EIAR and supplementary information provided by the applicant, the reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that there would

be no significant direct, indirect, or cumulative effects as a result of the proposed development.

10.12. **Material Assets**

10.12.1. **Issues Raised**

As previously discussed in section 9.6 of this report, both the third-party appeal and the planning authority have raised concerns about the impact of the proposed development on the existing road network.

10.12.2. **Examination, analysis, and evaluation of the EIAR**

Context

Section 12 of the EIAR deals with 'Material Assets', and more particularly the cumulative traffic impact of phase 1 and 2 on the existing road network. I have already addressed this matter in section 9.6 of this report. The section is supported by Traffic and Transport Statements for both Phase 1 and 2 developments. As previously outlined, the traffic survey information was updated in the further information response, and this has been considered in my assessment.

The traffic assessment has been completed having regard to the 'Guidelines on the Information to be Contained in Environmental Impact Assessment Reports' (EPA May 2022), TII Traffic and Transport Assessment Guidance 2014, and TII Project Appraisal Guidelines 2011. Consultation was carried out with DCC as part of the planning process.

Baseline

Section 12.5.1 of the EIAR outlines how baseline conditions were established through a traffic survey of the Glencar Road /TheGrange/Dr McGinley Road priority junction in Nov 2021. I note that this was updated by the more recent survey of Sept 2023. The AM peak hour figures for the junction in November 2021 and September 2023 were similar (0.73% difference with the previous survey). Flow values for the PM peak hour were slightly higher in 2023. The EIAR classifies The Grange (Old Glencar Rd) as a lightly trafficked route operating well below link capacity.

Potential Effects

The potential significant effects of the development, as identified in the EIAR, are summarised in the table below.

Project Phase	Potential Direct, Indirect, and Cumulative Effects
Do Nothing	<ul style="list-style-type: none">• Would result in no change whatsoever to the existing established traffic and transportation demands or conditions.
Construction	<ul style="list-style-type: none">• Will not give rise to any significant traffic concerns or impede the operational performance of the local road network.
Operation	<ul style="list-style-type: none">• The EIAR predictions are based on the original Nov 2021 surveys. See section 9.6 of this report for a summary of the predicted operational impacts based on the updated Set 2023 surveys. It outlines that through traffic remains uninhibited during the AM and PM peak assessment periods.
Decommissioning	<ul style="list-style-type: none">• Not examined in the EIAR. I consider this to be reasonable given the nature and lifetime of the project
Cumulative	<ul style="list-style-type: none">• Phase 1 and 2 would generate a low or not significant impact which can be accommodated on the surrounding road network.

Mitigation

The proposed mitigation measures are set out in Section 12.9 of the EIAR. The construction stage measures largely revolve around a Construction Traffic Management Plan and a Construction and Environmental Management Plan, which outline standard best practice on these matters.

For the operational Phase of development, any works prior to development opening will be agreed with Donegal County Council. Pedestrian, cyclist and vehicular links to both permitted phases of the development and to the local network are proposed.

Residual Effects

The EIAR concludes that residual impacts will be positive, with increased pedestrian activity and connectivity and an increased demand for public and alternative

transport. Increased construction traffic is deemed to be negligible, and the local road network can cater for the additional operational traffic.

10.12.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 12 of the EIAR and all of the associated documentation and submissions on file in respect of 'Material Assets'. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on traffic, as a consequence of the development have been identified.

I note that the applicant's assessment has been limited to 'traffic' and does not consider other utilities/infrastructure such as water services, communications, etc. However, I note that Uisce Eireann has confirmed agreement in principle to the water / wastewater proposals, and I do not consider that there would be any other significant impacts on utilities or other material assets.

As outlined in section 9.6 of this report, I have considered the applicant's traffic assessment, as well as the concerns of the planning authority and local residents. However, for the reasons previously outlined, I do not consider that there would be any unacceptable traffic impacts on the local road network.

10.12.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Material Assets, in particular the EIAR and supplementary information provided by the applicant, the reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development.

10.13. **Landscape**

10.13.1. **Issues Raised**

As previously discussed in section 9.4 of this report, third-party concerns have been raised regarding the visual impact of the development in the wider landscape.

10.13.2. Examination, analysis, and evaluation of the EIAR

Context

Section 13 of the EIAR deals with 'Landscape' and the effects on the appearance and character of the local environs arising from the proposed development. I have already addressed this matter in section 9.4 of this report.

The methodology included a desk-based analysis of data from OSI, aerial photography, field surveys, as well as the DCDP and DCC Landscape Character Assessment of County Donegal (2016). The assessment methodology also considered the Department of Housing Local Government and Heritage (June 2000) Landscape and landscape assessment guidelines; the EPA (2022) Guidelines on the Information to be included in Environmental Impact Assessment Reports; and the Landscape Institute with the Institute of Environmental Management and Assessment, 2013 (Third edition), Guidelines for landscape and visual assessment.

Based on the visibility of the site within the surrounding study area, the EIAR considers the impact of the development from 12 selected viewpoints.

Baseline

Section 13.4 of the EIAR outlines a description of the existing environment. The development is located in the Letterkenny Estuary and Farmland Landscape Character Area (LCA) according to the Landscape Character Assessment for Donegal. The Donegal County Council Development Plan 2018-2024 classifies the application site as being in an Urban Area of Letterkenny. The topography of the site is hilly with most of the site on a south facing hillside of varying slope.

Potential Effects

The potential significant effects of the development, as identified in the EIAR, are summarised in the table below.

Project Phase	Potential Direct, Indirect, and Cumulative Effects
Do Nothing	<ul style="list-style-type: none">• Not considered in the EIAR.
Construction	<ul style="list-style-type: none">• Greatest from closest receptors. Construction vehicles and machinery onsite without the benefit of bolstered boundary

	planting coming to maturity. This impact is assessed as moderate and temporary in nature.
Operation	<ul style="list-style-type: none"> The visual impacts from transport routes, especially on some approach roads to Letterkenny from elevated positions coming into the town from the south and from properties immediately surrounding the site are considered slight or slight to moderate.
Decommissioning	<ul style="list-style-type: none"> Not examined in the EIAR. I consider this to be reasonable given the nature and lifetime of the project
Cumulative	<ul style="list-style-type: none"> The assessment considers the cumulative impact with Phase 1 but does not identify any significant cumulative effects.

Mitigation

The proposed mitigation measures are set out in Section 13.7 of the EIAR. The construction stage measures include protective fencing for trees/vegetation; site hoarding along boundaries; good construction practice as per the CEMP; and Ecological Clerk of Works to co-ordinate & oversee final recommendations for biodiversity/mitigation with the proposed landscaping plan.

For the operational Phase of development, the mitigation measures include the design of the development to blend in with the existing landscape. Landscaping planting will also be completed in accordance with the landscaping plan at suitable times and with suitable species.

Residual Effects

The EIAR concludes that residual impacts will not be significant.

10.13.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 13 of the EIAR and all of the associated documentation and submissions on file in respect of 'Landscape'. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on landscape, as a consequence of the development have been identified.

As outlined in section 9.4 of this report, I have considered the applicant's assessment, as well as the concerns of the local residents. I note that the applicant's assessment focusses on the visibility of the site as it currently exists. With the exception of photomontage views from L-1054 road at Lismonaghan (to the south), it does not illustrate the impact of the proposed development. However, given that the proposed development is of a similar height, scale and density to existing adjoining properties, I consider that the visual impact of the development can be readily and accurately predicted.

In this regard, I am satisfied that the proposed development would successfully assimilate with existing development and would simply consolidate the visual impact of existing housing on the south-facing slopes overlooking Letterkenny. The visual impact would be appropriately softened by the existing and proposed planting schemes. Accordingly, I do not consider that there would be any significant landscape or visual impacts on the local environment.

10.13.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Landscape, in particular the EIAR and supplementary information provided by the applicant, the reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development.

10.14. **Cultural Heritage**

10.14.1. **Issues Raised**

No specific issues have been raised regarding impacts on Cultural Heritage.

10.14.2. **Examination, analysis, and evaluation of the EIAR**

Context

Section 14 of the EIAR deals with 'Cultural Heritage' and the potential effects on the archaeological, architectural and cultural heritage resource. It has been prepared according to the National Monuments Acts (1930-2014); the Architectural Heritage (National Inventory) and Historic Monuments (Miscellaneous Provisions) Act, 1999; the Framework and Principles for the Protection of Archaeological Heritage (DAHGI,

1999); and Guidelines on the Information to be contained in Environmental Impact Assessment Reports (EPA 2022).

A study area of 1km has been used around the proposed development site. A desk study of all cultural heritage features within the study area has been completed. A field inspection has also been carried out.

Baseline

Section 14.3 of the EIAR describes the existing environment. It does not identify any known cultural heritage assets on the site or within its immediate surroundings. From an archaeological perspective, there are no recorded monuments or national monuments. There are no Protected Structures within the study area, while the nearest structure recorded on the National Inventory of Architectural Heritage (NIAH) is approximately 350m to the south. No archaeological or architectural features or artefacts were revealed on the walkover survey in November 2021.

Potential Effects

The potential effects of the development, as identified in the EIAR, are summarised in the table below.

Project Phase	Potential Direct, Indirect, and Cumulative Effects
Do Nothing	<ul style="list-style-type: none">• No effect.
Construction	<ul style="list-style-type: none">• Potential permanent direct and imperceptible effect on any previously unrecorded archaeological remains.
Operation	<ul style="list-style-type: none">• None.
Decommissioning	<ul style="list-style-type: none">• Not examined in the EIAR. I consider this to be reasonable given the nature and lifetime of the project.
Cumulative	<ul style="list-style-type: none">• None.

Mitigation

Mitigation measures are set out in Section 14.5 of the EIAR and can be summarised as follows:

- Archaeological monitoring of all groundworks be carried out.
- Full excavation and recording of any archaeological features or deposits that may be exposed during monitoring.

Residual Effects

The EIAR concludes that that there will be no residual effects.

10.14.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 14 of the EIAR and all of the associated documentation and submissions on file in respect of 'Cultural Heritage'. I am satisfied that the applicant's understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely effects on Cultural Heritage, as a consequence of the development have been identified.

I would accept that there are no know cultural heritage resources within or immediately adjoining the application site that would be significantly affected by the proposed development. In this regard, I consider that the proposed archaeological monitoring measures are sufficient.

10.14.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Cultural Heritage, in particular the EIAR and supplementary information provided by the applicant, the reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development.

10.15. **Interactions**

10.15.1. **Issues Raised**

No specific issues have been raised regarding interactive impacts.

10.15.2. Examination, analysis, and evaluation of the EIAR

Context

Section 15 of the EIAR addresses the cumulative impacts, indirect impacts and main interactions between different aspects of the environment that may be impacted on as a result of the development.

Potential Effects

The potential interactions and mitigation measures associated with the development, as identified in the EIAR, are summarised below.

- Population & Human Health and:

Water – The potential for contaminants to impact on water quality is assessed as ‘imperceptible’ having regard to the proposed pollution control mitigation measures.

Noise & Vibration - Construction site activities will increase noise and vibration levels, which are addressed through a range of mitigation measures.

- Biodiversity and:

Land, Soils, and Geology – The loss of habitat and the excavated materials will be suitably managed through the CEMP.

Water – The loss of habitat and potential hydrological impacts will be addressed through surface water mitigation measures to regulate the quantity and quality of discharge from the site.

Air – Dust will be managed during construction and the proposed buildings will be designed to NZEB standard to result in less air emissions.

Noise & Vibration – The construction mitigation measures will ensure that noise will not cause any significant adverse effect to wildlife.

Landscape - The loss of existing vegetation will be offset by the creation and maintenance of landscaping measures to lead to overall increased biodiversity.

- Land, Soils, & Geology and:

Population and Human Health - Site clearance has the potential for increased emissions to air and water, which will be mitigated as outlined below.

Water – Construction management measures and the proposed water management plan using the new attenuation tank and hydrocarbon interceptor will protect waters.

Air - Measures and procedures to mitigate against air pollution by site clearance and associated activities are proposed.

Landscape – Excavated materials will be reused within the site in accordance with the proposed landscaping plan.

- Water and:

Air – The potential for dust associated with construction activities to contaminate water will be addressed through dust minimisation measures and monitoring.

- Air and:

Population and Human Health - The potential for dust associated with construction activities will be addressed through dust minimisation measures and monitoring.

Material Assets – Traffic related emissions would not significantly impact on air quality.

- Climate and:

Population & Human Health - Mitigation measures for construction plant/vehicles will reduce emissions in so far as possible in order to reduce the impact on climate.

Air – Plant/vehicle emissions will be managed during construction and the proposed buildings will be designed to NZEB standard to result in less air emissions.

- Material Assets and:

Noise & Vibration – Increased construction and operational traffic may increase noise and vibration levels for local residents.

Population & Human Health - Increased construction and operational traffic may increase congestion and impact on health and safety.

Water - Increased traffic and parking at the site may give rise to hydrocarbon spills from vehicles both during the construction and operational phase.

- Landscape and:

Population & Human Health – Potential for negative effects to the visual amenity of the local area at construction and operational stage. The proposed landscaping will minimise the operational effects to ‘imperceptible’.

Mitigation Measures

The proposed measures have been outlined throughout the EIAR and are summarised above.

10.15.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have examined, analysed, and evaluated Section 15 of the EIAR and all of the associated documentation and submissions on file in respect of ‘Interactions’. I am satisfied that the applicant’s understanding of the baseline environment, by way of desk and site surveys, is comprehensive and that the key impacts in respect of likely interactive effects, as a consequence of the development have been identified.

As outlined throughout this section of my report, I am satisfied that significant effects will be limited to Population and Human Health as a result of construction stage disturbance; Biodiversity as a result of construction stage disturbance, loss of habitat, and impacts on water quality, as well as operational impacts on water quality; and Water as a result of construction works and the operational surface water discharges. I am satisfied that these impacts will be satisfactorily addressed through the proposed mitigation measures and, in the event of a grant of permission, the limiting of the duration of permission to 5 years.

10.15.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

Having regard to the examination of environmental information in respect of Interactions, in particular the EIAR and supplementary information provided by the applicant, the reports of the planning authority, and third-party and prescribed body submissions received in the course of the application and appeal, it is considered that, subject to the proposed mitigation measures and the recommended conditions of any permission, there would be no significant direct, indirect, or cumulative interactive effects as a result of the proposed development.

10.16. Reasoned Conclusion

10.16.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, as well as the submissions received from the planning authority, prescribed bodies and third parties in the course of the application and appeal, I consider that the main significant direct, indirect, and cumulative effects of the proposed development on the environment are, and will be mitigated as follows:

- Population and Human Health: Positive socioeconomic effects through the availability of additional housing when complete.
- Population and Human Health: Potential negative effects associated with nuisance/disturbance during the construction phase, which would be satisfactorily addressed through construction management mitigation measures and by limiting any grant of permission to a period of 5 years. This would not result in any unacceptable residual effects.
- Biodiversity: Potential negative construction-related effects associated with disturbance to birds, bats, badgers and other wildlife; the loss of habitat during the construction phase; and potential impacts on water quality and the aquatic environment at construction and operational stage. This would be satisfactorily addressed through the employment of good practice construction management mitigation measures and by the design of the proposed scheme which will retain and protect important habitats and ensure that the quantity and quality of the hydrological environment is not adversely affected. This will prevent any unacceptable residual effects.
- Water: Potential for negative effects including contamination effects on groundwater and surface water as a result of construction activities and the discharge of surface water at operational stage. This will be satisfactorily mitigated through best practice construction management measures and the implementation of an appropriately designed Sustainable Urban Drainage System, which will not result in any unacceptable residual effects.

I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative effects on the environment.

11.0 Appropriate Assessment Screening

- 11.1. An AA Screening exercise has been completed. See Appendix 1 of this report for further details.
- 11.2. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.
- 11.3. This conclusion is based on:
- Objective information presented in the applicant's Screening Report;
 - The limited zone of influence of potential impacts;
 - Standard construction and operational surface water pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same;
 - The available capacity of the Letterkenny Wastewater Treatment Plant to facilitate future development in compliance with the provisions of the Water Framework Directive;
 - Distance from European Sites;
 - The limited potential for pathways to any European site; and
 - The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.
- 11.4. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

12.0 Recommendation

Having regard to the foregoing assessments, I recommend that permission should be **refused** for the proposed development for the reasons and considerations set out in the following Draft Order.

13.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: 23/50689

Appeals by The Old Glencar, Solomon's Grove and Upper Fernhill Residents Associations, c/o Jim and Theresa Kelly, Old Glencar Road, Letterkenny, Co. Donegal, against the decision made on the 22nd day of February 2024, by Donegal County Council to grant permission for the proposed development, and by P.J. McDermott, c/o Harley Planning Consultants Ltd, 1 Melmount Park, Strabane, Co. Tyrone, BT82 9SU, against conditions numbers 2 and 35 of the decision made on the 22nd day of February 2024, by Donegal County Council to grant permission for the proposed development.

Proposed Development:

A period of 10 years for a large-scale residential development on a site of 10.2ha (within an overall landholding of 15.7ha) consisting of the following works:

(1) construction of phase 2 of a housing development consisting of 160 no. houses and 7 no. apartment blocks containing 28 no. apartments (188 no. residential units in total) comprising of:-

- house type a – 4 bed semi-detached (64 no. units),
- house type b – 3 bed semi-detached (22 no. units),
- house type b1 – 3 bed semi-detached (20 no. units),
- house type b1h – 3 bed semi-detached (20 no. units),
- house type c – 3 bed terraced block (6 no. blocks – 24 no. units),
- house type d – 2 bed terraced block (2 no. blocks – 8 no. units),
- apartment type e – 2 bed apartments (7 no. blocks – 28 no. units),
- house type f – 2 bed semi-detached (2 no. units),

(2) connections to piped services proposed as part of the adjacent phase 1 development of 90 residential units to the south (appeal pending on an bord pleanála ref. pl05e.316160 – decision of donegal county council reg. ref. 22/51204 to grant permission). The two phases of development will also be connected via two no. proposed pedestrian and vehicular routes, and

(3) construction of a new vehicular entrance from the grange (also proposed as part of phase 1) and an internal distributor road that will provide for future access to adjacent lands to the north and east of the site to facilitate integration of the proposed development and future adjacent developments as well as facilitating future connection to the proposed upgraded northern strategic link/windyhall road, bus stops, landscaped open spaces, play areas and planted boundary buffers, attenuation tank, retaining walls, all associated site development works, infrastructure and services.

Decision

Refuse permission for the above proposed development based on the reasons and considerations set out below.

Reasons and Considerations

1. Having regard to the designation of Letterkenny as a Regional Growth Centre in the Project Ireland 2040 National Planning Framework issued by the Government of Ireland; Regional Policy Objective 3.7.27 of the Letterkenny Regional Growth Centre Strategic Plan as contained within the Northern and Western Regional Assembly Regional Spatial and Economic Strategy 2020-2032; and to Policy and Objective 3.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024, which is supported by Policy LK-H-P-2 of the Letterkenny Plan and Local Transport Plan 2023-2029; it is considered that the proposed development would constitute an insufficient and unacceptable level of density at this location. The proposed density would

constitute an inefficient use of zoned lands which would fail to contribute towards compact sustainable development as envisioned in local, regional, and national planning policy; would fail to provide an adequate variety of house types; and would result in a substandard layout which lacks enclosure and opportunities to spatially define streets and spaces to create a quality urban environment. The proposed development would be contrary to Policy UB-P-10 of the County Donegal Development Plan 2018-2024 and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the design and layout of the proposed development, including:

- a lack of legibility and permeability;
- road design and parking proposals which are car-dominated, lacking in a design-led approach to a self-regulating pedestrian priority environment, and do not appropriately implement the principles, approaches and standards set out in the Design Manual for Urban Roads and Streets, 2013 (including updates);
- an inadequate mix and distribution of house types and other supporting residential uses;
- the lack of a high-quality integrated open space network; and
- substandard proposals for private open space to serve the proposed apartments,

it is considered that the proposed development would fail to comply with the design guidance and Key Indicators of Quality Design and Placemaking as required under Policy and Objectives 4.1 and 4.2 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024, and would fail to appropriately respond to Objective UB-O-4 and Policy UB-P-7 of the County Donegal Development Plan 2018-2024. The proposed development would provide a substandard form of development for future occupiers in terms of residential amenity, would give rise to a poor standard of development, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Stephen Ward
Senior Planning Inspector
16th May 2024

Appendix 1

AA Screening Determination

Screening for Appropriate Assessment Screening Determination

1. Description of the project

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is located within an elevated area on the northwest suburban environs of Letterkenny. It is c. 2.8km from the nearest Natura 2000 site (Lough Swilly SAC). It is c. 3.2km from Lough Swilly SPA. Both sites are on lower ground to the southeast of the appeal site.

The proposed development comprises the construction of 188 no. residential units and all associated siteworks and services. It is proposed to connect to the existing Uisce Eireann water and wastewater services, as well as the public storm sewer system in the adjacent public road. The site is elevated and generally slopes down from north to south. There are a number of drainage pathways flowing to the south along the site boundaries.

The Planning Authority received a submission from Inland Fisheries Ireland which highlighted hydrological links to the Swilly River and the need to protect water quality and riparian habitat, as well as the need to consult with NPWS in relation to the Lough Swilly SAC & SPA and the potential requirement for AA. However, the DCC Planner's Report refers to an accompanying AA Screening Report and concludes that full Appropriate Assessment is not required as it can be excluded on the basis of objective scientific information that the proposed development individually or in combination with other plans/projects will have a significant effect on Natura 2000 sites.

2. Potential impact mechanisms from the project

The site is not within or adjoining any Natura 2000 sites and I do not consider that there is potential for any direct impacts such as habitat loss, direct emissions, or species mortality/disturbance. Furthermore, the site does not contain any suitable ex-situ habitats for the SCIs of the surrounding SPAs.

There is an indirect pathway in respect of surface water drainage from the site entering a series of stormwater sewers/drains, and open and culverted urban drains throughout Letterkenny and then entering the River Swilly at two possible locations, and then entering the Swilly Estuary further downstream. There are potential impacts at construction stage relating to construction-related pollutions, as well as operational impacts in terms of the quantity and quality of surface water discharge.

There is also an indirect pathway in respect of operational wastewater emissions to the public network followed by discharge from Letterkenny WWTP to Lough Swilly.

Having regard to the nature of the site and its distance and lack of connectivity with Natura 2000 sites, I do not consider that there would be any other potential impact mechanisms.

3. European Sites at risk

Having regard to the potential impact mechanisms from the proposal, the European site(s) and qualifying features potentially at risk are outlined in the following table.

Table 1 European Sites at risk from impacts of the proposed project			
Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Surface / storm water drainage	Series of stormwater sewers/drains, and open and	Lough Swilly SAC Lough Swilly SPA	<u>Lough Swilly SAC</u> Estuaries; Coastal lagoons; Atlantic salt meadows; Molinia meadows; Old Oak woodlands; Harbour Porpoise; Otter.

	culverted urban drains throughout Letterkenny and then entering the River Swilly at two possible locations, and then entering the Swilly Estuary further downstream.		<u>Lough Swilly SPA</u> Great Crested Grebe; Grey Heron; Whooper Swan; Greylag Goose; Shelduck; Wigeon; Teal; Mallard; Shoveler; Scaup; Goldeneye; Red-breasted Merganser; Coot; Oystercatcher; Knot; Dunlin; Curlew; Redshank; Greenshank; Black-headed Gull; Common Gull; Sandwich Tern; Common Tern; Greenland White-fronted Goose; Wetland and Waterbirds.
Wastewater Discharge	Via the public network and discharge to Lough Swilly via the Letterkenny WWTP	As above	As above

Lough Swilly SAC is an estuarine site which extends from below Letterkenny to just north of Bunrana. Atlantic salt meadow marshes are well represented in the inner sheltered areas of the site, with good examples in the Ramelton area. Lakes which are lagoonal in character occur at Inch and Blanket Nook. Over 11 hectares of Molinia Meadows are reported to occur at Inch Level. Two woodlands (Rathmullen and Carradoan) occur adjacent to the north-western shore of Lough Swilly and are dominated by Sessile Oak and Downy Birch. The site also supports a population of Otter.

The majority of Lough Swilly SPA overlaps with the SAC area. The SPA is of special conservation interest for the species listed above and for holding an assemblage of over 20,000 wintering waterbirds.

4. Likely significant effects on the European site(s) 'alone'

Taking account of baseline conditions and the effects of ongoing operational plans and projects, the table below considers whether there is a likely significant effect 'alone'.

Table 2: Could the project undermine the conservation objectives 'alone'			
European Site and qualifying feature	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?	
		Surface / storm water drainage	Wastewater Discharge
Lough Swilly SAC			
Estuaries,	To maintain favourable conservation condition	No	No
Coastal Lagoons, Atlantic Salt Meadows, Otter, Old Oak woodlands,	To restore favourable conservation condition	No	No
Lough Swilly SPA			
Great Crested Grebe; Grey Heron; Whooper Swan; Greylag Goose; Shelduck; Wigeon; Teal; Mallard; Shoveler; Scaup; Goldeneye; Red-breasted Merganser; Coot; Oystercatcher; Knot; Dunlin; Curlew; Redshank; Greenshank; Black-headed Gull;	To maintain favourable conservation condition	No	No

Common Gull; Sandwich Tern; Common Tern; Greenland White-fronted Goose; Wetland and Waterbirds.			
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Surface / Storm Water Drainage: The drainage channel originating at the southwest corner of the site provides a c.6.15km hydrological pathway to the SAC and c.7.3km to the SPA. The drainage channel originating at the southeast corner of the subject site provides a c.4.38km hydrological pathway to the SAC and c.6km to the SPA. The construction phase will be temporary and the EIAR includes a comprehensive range of standard construction management measures to protect water quality. For the operational stage, the drainage network has been designed in accordance with SuDS principles to ensure that the quantity and quality of discharge will not adversely impact on the existing drainage system. Due to the hydrological buffer from the Natura 2000 sites and construction/operational measures incorporated (which are not included to avoid or reduce harmful effects on European sites) I do not consider that the proposed development will give rise to hydrological impacts that could affect the Natura 2000 sites.

Wastewater Discharge: Foul water will be collected via a sewer network and connected to the existing public foul water drainage infrastructure in accordance with the Irish Water Code of Practice for Wastewater Infrastructure. This will ensure no negative effects arising from improper foul water management will occur. Wastewater will be treated at the Letterkenny WWTP prior to discharge to Lough Swilly. The proposed development would constitute only a negligible addition to the existing loading and Uisce Eireann has confirmed that there is capacity to accommodate the proposed development. I do not consider that the proposed development will give rise to hydrological impacts that could affect the Natura 2000 sites.

Conclusion

I conclude that the proposed development would have no likely significant effect 'alone' on any qualifying features of Lough Swilly SAC or Lough Swilly SPA. Further AA screening in-combination with other plans and projects is required.

5. Likely significant effects on the European site(s) 'in-combination with other plans and projects'

I consider that the potential for in-combination effects is limited to the cumulative impact of Surface / Storm Water Drainage and Wastewater Discharge associated with other developments in the area. In particular, I note the Phase 1 proposal on the adjoining site to the south. The applicant's AA Screening Report also identified other relevant projects in the area, the majority of which are minor in scale. I note the permitted development (P.A. ref: 18/51939) for 98 houses on a site c. 1km to the north, and that there was no direct connectivity with the appeal project that would result in cumulative effects. I also note that the Donegal County Development Plan 2018-2024 includes a range of policies and objectives to protect water quality and Natura 2000 sites, and that any approved projects would have to demonstrate compliance with same.

I acknowledge that other developments have a potential cumulative impact on the drainage and wastewater network. However, consistent with the current application, I am satisfied that they would have to demonstrate that there would be no significant residual effects on hydrology and Natura 2000 sites.

I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s). No further assessment is required for the project.

Overall Conclusion- Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- Objective information presented in the applicant's Screening Report;
- The limited zone of influence of potential impacts;
- Standard construction and operational surface water pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same;
- The available capacity of the Letterkenny Wastewater Treatment Plant to facilitate future development in compliance with the provisions of the Water Framework Directive;
- Distance from European Sites;
- The limited potential for pathways to any European site; and
- The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.