



An
Bord
Pleanála

Inspector's Report

ABP-319597-24

Development	Construction of an agricultural shed, effluent tank, external animal holding pens and all associated site works.
Location	Bellanascadden, Coolboy, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2460244
Applicant	Seamus Doherty
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant	Peter Sweetman
Observer(s)	None
Date of Site Inspection	18 th October 2024
Inspector	Matthew O'Connor

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1.0 Site Location and Description

1.1. The appeal site is 0.026ha and located in the rural townland of Bellanascadden approximately 5.5km to the north of Letterkenny town centre, Co. Donegal. The area of the proposed development forms part of a modest yard containing a number of small shed buildings on the southern side of the L-5962-1 (Local Road). The topography of the area is lightly undulating. The surrounding area is characterised by agricultural lands with a considerable number of one-off rural dwellings of varying styles and arranged in individual settings to the northeast. There are no Protected Structures or National Monuments on or immediately adjoining the appeal site. The area of the proposed development is not located within a Flood Zone.

2.0 Proposed Development

2.1. The development subject to this appeal comprises:

- Construction of an agricultural shed (42sq.m)
- Provision of an effluent tank.
- Erection of external animal holding pens.
- Associated site works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Donegal County Council granted planning permission, subject to 7 no. conditions. The following conditions are of particular note:

Condition 4: Foul effluent and slurry generated shall be conveyed through properly constructed channels to proposed storage facilities and no effluent or slurry be discharged to any stream, river or watercourse or the public road.

Condition 5: Uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits. It shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

Condition 6: Slurry generated from the development shall be disposed of by spreading on land, or by other means acceptable in writing to the Planning Authority.

The location, rate and time of spreading shall be in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022, as amended).

Condition 7: Site preparation and construction shall adhere to best practice and conform with Inland Fisheries Ireland's Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites

3.2. Planning Authority Reports

3.2.1. Planning Report

- Had regard to the submitted documentation, locational context of the site and policy framework of the Development Plan.
- The principle of the agricultural development and the basis for the application was noted.
- The siting and design was deemed acceptable and would assimilate with the cluster of development and would not detract from the character of the area.
- No concerns raised in relation to residential amenity or access.
- No public health matters arise and that applicant would be required to comply with respective State departments regarding standards for farm operations.
- Proposal required to accord with Dept. of Agricultural standards for surface water run-off. Unsolicited information received with application indicates storm drainage will be connected to an existing sheough and watercourse currently serving the site. It is noted that drainage from external pens will be diverted to new slurry tanks to avoid contamination.
- In terms of Appropriate Assessment, the development was not considered to have any significant effect, individually or in combination with any other plan or project.
- No issues raised with respect to EIA.

3.2.2. Other Technical Reports

- Area Roads Engineer - No response received.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

3.4.1 One third party observation was received by the Planning Authority in relation to the subject development. This observation has been read and noted as part of the appeal file. The following issues raised as summarised as follows:

- Outlines a number of legal tasks of the Planning Authority when assessing applications of this nature namely - the Planning & Development Acts, environmental impacts and screening for EIA and responsibilities under the Habitats Directive.
- Reference made to legal judgements.
- Indicates a requirement to submit a Natura Impact Statement, a Construction Management Plan and a Nutrient Management Plan giving details of all currently associated land spreading areas.
- Submission claims that the site is within the Zone of Leannan River SAC (Site Code: 002176) and Appropriate Assessment is required.

4.0 Planning History

- None.

5.0 Policy Context

5.1. Development Plan

5.1.1. The application was assessed by Donegal County Council in accordance with the policies and objectives of the County Donegal Development Plan 2018-2024. The County Donegal Development Plan 2024-2030 was adopted by Donegal County Council on the 16th of May 2024 and came into effect on the 26th of June 2024 – with the exception of parts of the Plan affected by a Draft Ministerial Direction. I have assessed the proposal under the provisions of the operative Development Plan, namely the County Donegal Development Plan 2024-2030.

5.1.2. As detailed in Map 11.1: 'Scenic Amenity' of the Development Plan, the appeal site is situated in an 'Area of High Scenic Amenity'. According to the definition contained in

Chapter 11: 'Natural, Built, and Archaeological Heritage' of the Development Plan, these are *'landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and form a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan'*.

5.1.3. The following objective and policy are relevant:

L-O-1 To protect, manage and conserve the character, quality and value of the Donegal landscape.

L-P-2 To protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.

5.2. Natural Heritage Designations

5.2.1. The appeal site is not located on or immediately adjoining any designated Natura 2000 sites. The nearest designated sites (as the crow flies) being the Leannan River Special Area of Conservation (Site Code: 002176) which is located approximately 2.7km to the northwest of the site. The Ballyarr Wood Special Area of Conservation (Site Code: 000116) which is located approximately 4.07km to the northeast of the site. The Lough Fern Special Protection Area (Site Code: 004060) is located approximately 5.41km to the northeast of the site. The Lough Swilly Special Protection Area (Site Code: 004075) and Lough Swilly Special Area of Conservation (Site Code: 002287) is located approximately 5.87km to the southeast of the site. The Derryveagh and Glendowan Mountains SPA (Site Code: 004039) and Cloghernaore Bog and Glenveagh National Park SAC (Site Code: 002047) are located some 8.95km and 9.83km respectively to the west of the appeal site.

5.3. EIA Screening

5.3.1. The proposed agricultural development is not a Class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development

Regulations 2001 (as amended). As such, no mandatory requirement for EIA arises and there is no requirement for a preliminary examination or screening assessment. Please see Appendix 1 of this report.

6.0 The Appeal

6.1. Grounds of Appeal

The Third Party appeal has been received in relation to the Planning Authority's decision to grant permission. The grounds of appeal can be summarised as follows:

- Reference made to Planner's Report indicating consideration to proposal proximate to Natura 2000 sites.
- An Bord Pleanála is the competent authority having responsibilities under the Habitats Directive.
- Reference made to the legal case for screening found in AG Sharpston in the opinion to 259/11 to Sweetman & Others v An Bord Pleanála stating: *"47. It follows that the possibility of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment. There is no need to establish such an effect; it is, as Ireland observes, merely necessary to determine that there may be such an effect."*
- The above is implemented into Irish law by Finlay Geoghegan J. in Kelly -v- An Bord Pleanála [2014] IEHC 400 (25 July 2014) at "26. *There is a dispute between the parties as to the precise obligations imposed on the Board in relation to the stage 1 screening by s. 1777U but its resolution is not strictly necessary in these proceedings. There is agreement on the nature and purpose of the screening process which is well explained by Advocate General Sharpston in Case C-258/11 Sweetman at paras 47-49:*

"47. It follows that the possibility of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment.

There is no need to establish such an effect; it is, as Ireland observes, merely necessary to determine that there may be such an effect."

- On the basis of the total lack of certainty in the information submitted it is not possible for An Bord Pleanála to make a decision to grant permission which would comply with the Appropriate Assessment threshold that any decision to grant permission must pass as explained in paragraph 44 of CJEU Case 258/11 - *"So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned."*
- This is a strict standard and An Bord Pleanála does not have legal jurisdiction to give permission if it is not met.

6.2. Applicant Response

- None.

6.3. Planning Authority Response

- A response has been received from the Planning Authority which notes the content of the Planning Appeal. The Planning Authority note that the name of one Third Party submission was not included within the Planner's Report in error. The Planning Authority considers that all matters raised in the appeal have been addressed in the Planner's Report. It is requested that the decision of the Planning Authority be upheld.

6.4. Observations

- None.

7.0 Assessment

Having examined the application details, the appeal and all other documentation on file, the report(s) of the Planning Authority, having conducted an inspection of the site, and having reviewed relevant planning policies and guidance, I am satisfied that the main issues to be considered are those raised by the Third Party. I am satisfied that

no other substantive issues arise. This appeal can be addressed under the following relevant headings:

- Principle of Development
- Design & Visual Impact
- Water Quality
- Appropriate Assessment (Screening)

7.1. Principle of Development

7.1.1. The appeal site is located in a rural area of County Donegal where the prevailing land use is agriculture. It is my opinion that the principle of agricultural structures in rural locations is generally acknowledged. The area of the subject development forms part of an established agricultural complex. I am therefore satisfied that the proposal is consistent with use of the immediate context and would be acceptable in principle.

7.2. Design & Visual Impact

7.2.1. The appeal site is situated in an 'Area of High Scenic Amenity' as detailed in Map 11.1 of the Development Plan. According to the definition, these areas have the capacity to absorb development that is sensitively located and of scale, design and use that will enable the assimilation of the development into the receiving landscape so as to not detract from the quality of the landscape. It is a Development Plan objective to protect, manage and conserve the character, quality and value of the Donegal landscape (L-O-1). Policy L-P-2 seeks to protect these areas and only consider developments of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape.

7.2.2. The proposed development is situated within an existing complex with adjoins the public road area. A small mono-pitched block outbuilding in the hard-surfaced yard area will be removed to facilitate the proposed development. The proposed shed is rectangular in shape with a modest floor area of 42sq.m (9.6 metres x 4.4 metres) and will have a frame construction containing a mono-pitched roof with over-hanging canopy. The roof will rise from 3.32 metres to 4.5 metres. The proposed development will contain an open front, closed by a feeding barrier. The external finishes of the proposed structure are shown to include a plaster finish wall surround to part-side and rear with corrugated metal sheeting (to match existing shed) to the roof and side

walls. The proposed development also includes the construction of 2 no. external pens for holding animals. These pens cover an area of approximately 56sq.m and will be located to the rear of the existing agricultural shed and accessed via the open-sided/gated side profile of the proposed shed. As a point of clarity, I note a discrepancy in the representation of an existing shed to the immediate northeast of the application site. This shed is illustrated as being aligned on an east-west axis however, from my site observations, this structure is aligned north-south. I do not consider this error to be of particular significance in the consideration/assessment of subject development and is likely to relate to an older building on the lands which has been replaced.

7.2.3. The existing buildings are erected atop made-up/filled lands so as to be level with the public road. The proposed shed and pens are indicated as being set to the rear (southeast) of the existing buildings. No cross sections were submitted with the initial application particulars to aid the determination of fill required however, unsolicited information details that a retaining structure will be constructed along with a battered embankment which will be seeded for grass. Given the undulating character of the area, I note the need to build up the site from the natural sloping ground level.

7.2.4. On balance, I consider that the proposed agricultural shed is modest in scale and the general design and external materials are in keeping with the design of an agricultural building. I consider the proposal development would read as a limited extension to the existing farm complex. I am satisfied that the subject site and surrounding area can absorb the scale, form and massing of the proposed shed development and that it will integrate into the receiving environment without detrimental or adverse impact to the visual or scenic amenity of the area. On balance, I consider the proposed development is in accordance with Objective L-O-1 and Policy L-P-2 of the Development Plan.

7.3. Water Quality

7.3.1. The proposed development does not include a water connection. The proposed agricultural shed will provide a tank beneath which will capture effluent generated by livestock when housed in the shed. I note that no technical details have been provided regarding the tank or its storage capacity, however, the particulars with the appeal file claim that current livestock numbers will not be increased. Moreover, the rationale for the proposed shed is to afford adequate space for existing livestock on this family farm.

- 7.3.2. Surface water run-off from the proposed shed and livestock pens were not detailed on the initial submitted drawings. At the time of my site inspection, I observed that roof run-off from an existing shed in proximity to the proposed development was free draining from the building to the open furrow, or 'sheugh'. I note that unsolicited information was submitted on behalf of the application at application stage. Annotations on the attached Site Layout Plan indicate that an existing sheugh (i.e. furrow/drain) is tied into an existing 300mm storm drain. The submitted details state that all new storm drainage from roofing will be taken to the sheugh and onto the watercourse. Drainage from the external pens is to be diverted to new slurry tanks to avoid contamination to watercourse.
- 7.3.3. The carrying out of land spreading does not form a specified part of this application. As noted, the appeal file indicates that livestock numbers is not to be increased. In this regard, I note that any subsequent, land spreading would be regulated by the provisions of S.I. No. 113/2022 entitled "European Union (Good Practice for Protection of Waters) Regulations 2022" (as amended).
- 7.3.4. The potential risks to water quality arising from either the construction and/or operational phases of the proposed shed, effluent tank and livestock pens is considered in the Screening for Appropriate Assessment Determination (see Appendix 2).

8.0 Appropriate Assessment (Screening)

- 8.1. Having regard to the grounds of the Third Party, please refer to Appendix 2 of this report which contains a Screening for Appropriate Assessment Determination where I have concluded the following:
- 8.2. 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:
- 8.3. 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.
- 8.4. This conclusion is based on:
- The nature and extent of the proposed development.

- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same.
- Distance from European Sites.

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

9.0 Recommendation

9.1. I recommend that planning permission for the proposed development should be GRANTED for the reasons and considerations set out below.

10.0 Reasons and Considerations

10.1. Having regard to the location of the proposed development within an established farmyard complex and the modest scale of the proposal, it is considered that, subject to compliance with the conditions as set out below, the development would not seriously injure the visual or scenic amenity of the area and would be acceptable in terms of public health and environmental sustainability. The subject development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Reasons and Considerations

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard:

(a) uncontaminated surface water run-off shall be disposed of directly in a sealed system to ground in appropriately sized soakaways.

(b) all soiled waters shall be directed to an appropriately sized soiled water storage tank (in accordance with the requirements of the European Union (Good Agricultural Practice for the Protection of Waters (Amendment) Regulations 2022, as amended, or to a slatted tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

(c) all separation distances for potable water supplies as outlined in the European Union (Good Agricultural Practice for the Protection of Waters)(Amendment) Regulations 2022, as amended shall be strictly adhered to.

Reason: In the interest of environmental protection and public health.

3. All soiled waters and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the proposed and existing storage facilities. No soiled waters or slurry shall discharge or be allowed to discharge to any drainage channel, stream, watercourse or to the public road.

Reason: In the interest of public health.

4. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, watercourses or to appropriately sized soakaways. Uncontaminated waters shall not be allowed to discharge to soiled water and/or slurry tanks or to the public road.

Reason: In order to ensure that the capacity of soiled water tanks are reserved for their specific purposes.

5. The proposed development shall be designed, cited, constructed and operated in accordance with the requirements as outlined in the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2022, as amended. The applicant shall provide for the relevant (location dependent) storage requirements as outlined in schedule 3 of the aforementioned regulations. The landspreading of soiled waters and slurry shall be carried out in strict accordance with the requirements as outlined in the aforementioned regulations. Prior to the commencement of the development details showing how

the applicant intends to comply with this requirement shall be submitted to and agreed in writing with the Planning Authority.

Reason: In order to avoid pollution and to protect residential amenity.

6. Site preparation and construction shall adhere to best practice and shall conform to the Inland Fisheries Ireland Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites (www.fisheriesireland.ie – section relating to Construction Stage).

Reason: To prevent water pollution.

7. Details of the materials, colours and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

8. The use of the proposed shed building and external pens shall be for agricultural purposes only. The building shall not be used for human habitation or any commercial purpose other than a purpose incidental to farming, whether or not such use might otherwise constitute exempted development.

Reason: In the interest of orderly development and the amenities 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.

Matthew O Connor
Planning Inspector

19th December 2024

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála	ABP-319597-24		
Case Reference			
Proposed Development Summary	Construction of an agricultural shed, effluent tank, external animal holding pens and all associated site works.		
Development Address	Bellanascadden, Coolboy, Letterkenny, Co. Donegal		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	X	
	No		
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			Proceed to Q3.
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X		Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____

Date: _____

AA Screening Determination (Appendix to Main Report)

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the proposed development comprising the construction of an agricultural shed, effluent tank, external animal holding pens and all associated site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is within an established farmyard and is surrounded by grassland (in addition to a number of one-off residences). The bedrock aquifer type is 'PI' – Poor' and has an 'Extreme' Groundwater Vulnerability. There is an open furrow running from the southwest corner of the appeal site with a watercourse some 48 metres to the south of the proposed development. This watercourse is named on available EPA mapping as the Glashagh (Lower) River and flows in an east/north-easterly direction to the Leannan River.

The Leannan River SAC (Site Code: 002176), at its closest point, is located approximately 2.69km to the north-west of the appeal site. The next closest Natura 2000 site is the Ballyarr Wood SAC (Site Code: 000116) which is approximately 4.07km to the north-east of the site. The Lough Fern SPA (Site Code: 004060) lies approximately 5.47km to the north-east of the appeal site. The appeal site is approximately 6.01km to the north-west of the Lough Swilly SAC (Site Code: 002287) and Lough Swilly SPA (Site Code: 004075). In addition, the Derryveagh and Glendowan Mountains SPA (Site Code: 004039) and Cloghernaore Bog and Glenveagh National Park SAC (Site Code: 002047) are located some 8.95km and 9.83km respectively to the west of the appeal site.

I note in relation to the Ballyarr Wood SAC, Lough Fern SPA, Derryveagh and Glendowan Mountains SPA, Cloghernaore Bog and Glenveagh National Park SAC that some of these European Sites have a lesser linear separation distance to the appeal site than other designated sites being considered under this proposed development. However, I consider that it is not probable that the proposed development, if approved, would give rise to any adverse impact upon the respective conservation objectives of these above-named sites. This reasoning is based on the topographic nature and setting of the proposed development in the context of the designated areas and their associated qualifying interests/features.

I note that the grounds of the Third Party state that An Bord Pleanála is the competent authority having responsibilities under the Habitats Directive and is therefore required to screen developments under Article 6(3) so as to make a decision under this provision. It was also indicated in the Third Party observation that the appeal site is within the Zone of the Leannan River SAC (Site Code: 002176) and that Appropriate Assessment is required. I have taken the contents of the Third Party appeal into account in the following AA Screening Assessment.

Step 2: Potential impact mechanisms from the project

Having regard to the proposed works, I consider that the following elements would potentially generate a source of impact/effects on European Sites:

Construction Phase:

- Uncontrolled release of pollutants to ground water (e.g. run-off bearing silt, fuel/ oils, concrete) during the construction of the shed, effluent tank and livestock pens to water quality sensitive habitats.

Operational Phase:

- Potential for the release of effluent (e.g. stray fodder and spilt slurry) generated by the proposed development via surface water and to water quality sensitive habitats.

The site of the proposed development is not located in or immediately adjacent to a European site. The closest European site, as referred above, is approximately 2.69km to the northwest (as the crow flies) however, in terms of an associated hydrological link, there is a watercourse (Glashagh Lower) approximately 48 metres to the south of the proposed development which connects to the Leannan River some 5.67km to the north-east which is part of the Leannan River SAC. This SAC in turn connects to the Lough Swilly SAC and Lough Swilly SPA at a point some 3km from where the Glashagh Lower joins the Leannan River.

Therefore, it is likely that the furrow from the existing farm to the watercourse running in proximity to the appeal site would drain to other surrounding surface water bodies, which eventually drain to the Leannan River SAC and by extension the Lough Swilly SAC and Lough Swilly SPA. As such, potential impact mechanisms include those from surface water pollution from construction works (silt/ hydrocarbon/ construction-related), resulting in a deterioration of water quality. In addition, spillage of effluent from the shed and/or the associated underground tank could impact on surface water bodies, as could additional contaminated surface water run-off from additional hardstanding/hardsurfaced areas. With reference to EPA mapping, the appeal site is within the same groundwater body (Lough Swilly) as the Leannan River SAC, and therefore, groundwater pollution as a result of construction activity and operational activity is a potential impact mechanism.

There are no other readily apparent impact mechanisms that could arise as a result of this project.

Step 3: European Sites at risk

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

Indirect surface water pollution	Via drains to proximate watercourse which eventually flow to the Leannan River SAC	Leannan River SAC	<ul style="list-style-type: none"> • Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>) [1029] • Salmon (<i>Salmo salar</i>) [1106] • Otter (<i>Lutra lutra</i>) [1355] • Slender Naiad (<i>Najas flexilis</i>) [1833] • Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] • Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130]
Indirect groundwater pollution	Infiltration to groundwater via the Lough Swilly Groundwater Body	Leannan River SAC	<ul style="list-style-type: none"> • Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>) [1029] • Salmon (<i>Salmo salar</i>) [1106] • Otter (<i>Lutra lutra</i>) [1355] • Slender Naiad (<i>Najas flexilis</i>) [1833] • Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] • Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130]
Indirect surface water pollution	Via drains to proximate watercourse which eventually flow to the Leannan River and connect to the Lough Swilly SPA	Lough Swilly SAC	<ul style="list-style-type: none"> • Estuaries [1130] • Coastal lagoons [1150] • Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] • Otter (<i>Lutra lutra</i>) [1355] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]
Indirect groundwater pollution	Infiltration to groundwater via the Lough Swilly Groundwater Body	Lough Swilly SAC	<ul style="list-style-type: none"> • Estuaries [1130] • Coastal lagoons [1150] • Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] • Otter (<i>Lutra lutra</i>) [1355] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]
Indirect surface water pollution	Via drains to proximate watercourse which eventually flow to the Leannan River and	Lough Swilly SPA	<ul style="list-style-type: none"> • Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] • Grey Heron (<i>Ardea cinerea</i>) [A028] • Whooper Swan (<i>Cygnus cygnus</i>) [A038]

	connect to the Lough Swilly SPA		<ul style="list-style-type: none"> • Greylag Goose (<i>Anser anser</i>) [A043] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052] • Mallard (<i>Anas platyrhynchos</i>) [A053] • Shoveler (<i>Anas clypeata</i>) [A056] • Scaup (<i>Aythya marila</i>) [A062] • Goldeneye (<i>Bucephala clangula</i>) [A067] • Red-breasted Merganser (<i>Mergus serrator</i>) [A069] • Coot (<i>Fulica atra</i>) [A125] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Knot (<i>Calidris canutus</i>) [A143] • Dunlin (<i>Calidris alpina</i>) [A149] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Greenshank (<i>Tringa nebularia</i>) [A164] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Sandwich Tern (<i>Sterna sandvicensis</i>) [A191] • Common Tern (<i>Sterna hirundo</i>) [A193] • Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] • Wetland and Waterbirds [A999]
Indirect groundwater pollution	Infiltration to groundwater via the Lough Swilly Groundwater Body	Lough Swilly SPA	<ul style="list-style-type: none"> • Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] • Grey Heron (<i>Ardea cinerea</i>) [A028] • Whooper Swan (<i>Cygnus cygnus</i>) [A038] • Greylag Goose (<i>Anser anser</i>) [A043] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052] • Mallard (<i>Anas platyrhynchos</i>) [A053] • Shoveler (<i>Anas clypeata</i>) [A056] • Scaup (<i>Aythya marila</i>) [A062] • Goldeneye (<i>Bucephala clangula</i>) [A067]

			<ul style="list-style-type: none"> • Red-breasted Merganser (<i>Mergus serrator</i>) [A069] • Coot (<i>Fulica atra</i>) [A125] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Knot (<i>Calidris canutus</i>) [A143] • Dunlin (<i>Calidris alpina</i>) [A149] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Greenshank (<i>Tringa nebularia</i>) [A164] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Sandwich Tern (<i>Sterna sandvicensis</i>) [A191] • Common Tern (<i>Sterna hirundo</i>) [A193] • Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] • Wetland and Waterbirds [A999]
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Leannan River SAC (Site Code: 002176)

Having regard to the relevant 'Site Synopsis' on the NPWS website, this site comprises the River Leannan and its main tributaries and lakes, including Loughs Fern, Gartan and Akibbon. From source to seas, the river is 46km and drains a catchment of 282sq.km. The main tributaries include the lower Glashagh and Lurgy. The river has good water quality and the adjacent habitat is mainly wet grassland which has been improved to varying degrees for grazing. A main threat to the overall quality of the site is intensification of agriculture in the surrounding areas which could lead to eutrophication of the lake and river waters. This site is of high conservation importance.

Lough Swilly SAC (Site Code: 002287)

Having regard to the relevant 'Site Synopsis' on the NPWS website, this is a large site comprising the inner part of Lough Swilly – a long sea lough. The main rivers flowing into the site are the Swilly, Lennan and Crana. At low tide, extensive sand and mudflats are exposed, especially at the mouths of the Swilly and Lennan rivers. The site is estuarine in character, with shallow water and intertidal sand and mudflats being the dominant habitats. Saltmarshes are well represented in the inner sheltered areas of the site. Lakes which are lagoonal in character occur at Inch and Blanket Nook. The site supports a population of Otter and is of high ornithological importance for wintering waterfowl in autumn and winter. This site is of conservation importance as it contains good examples of at least five habitats listed on Annex I of the E.U. Habitats Directive.

Lough Swilly SPA (Site Code: 004075)

Having regard to the relevant 'Site Synopsis' on the NPWS website, this site is a long sea inlet which supports an excellent diversity of waterfowl species in autumn and winter as well as breeding terns, gulls and ducks. The combination within this site of extensive feeding areas and safe resting and roosting sites makes this one of the most important wetlands in the north-west of the country for wintering waterfowl.

Step 4: Likely significant effects on the European site(s) '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)?	
		Effect A (Indirect ground water pollution)	Effect B (Indirect ground water pollution)
Leannan River SAC			
Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>) [1029]	To restore the favourable conservation condition of Freshwater Pearl Mussel (<i>Margaritifera margaritifera</i>) in Leannan River SAC	No. Please see explanation below	No. Please see explanation below
Salmon (<i>Salmo salar</i>) [1106]	To restore the favourable conservation condition of Atlantic Salmon (<i>Salmo salar</i>) in Leannan River SAC	No. Please see explanation below	No. Please see explanation below
Otter (<i>Lutra lutra</i>) [1355]	To maintain the favourable conservation condition of Otter (<i>Lutra lutra</i>) in Leannan River SAC	No. Please see explanation below	No. Please see explanation below
Slender Naiad (<i>Najas flexilis</i>) [1833]	To restore the favourable conservation condition of Slender Naiad (<i>Najas flexilis</i>) in Leannan River SAC	No. Please see explanation below	No. Please see explanation below
Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]	To restore the favourable conservation condition of Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) in Leannan River SAC	No. Please see explanation below	No. Please see explanation below
Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or the Isoeto-Nanojuncetea [3130]	To restore the favourable conservation condition of Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or the Isoeto-Nanojuncetea in Leannan River SAC	No. Please see explanation below	No. Please see explanation below
Lough Swilly SAC			
Estuaries [1130]	To maintain the favourable conservation condition of Estuaries in Lough Swilly SAC	No. Please see explanation below	No. Please see explanation below
Coastal lagoons [1150]	To restore the favourable conservation condition of Lagoons in Lough Swilly SAC	No. Please see explanation below	No. Please see explanation below

Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]	To restore the favourable conservation condition of Atlantic salt meadows in Lough Swilly SAC	No. Please see explanation below	No. Please see explanation below
Otter (<i>Lutra lutra</i>) [1355]	To restore the favourable conservation condition of Otter in Lough Swilly SAC	No. Please see explanation below	No. Please see explanation below
Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	To restore the favourable conservation condition of Old oak woodland with Ilex and Blechnum in Lough Swilly SAC	No. Please see explanation below	No. Please see explanation below
Lough Swilly SPA			
All the specified seabirds and wetland and waterbirds.	To maintain the favourable conservation condition of all specified named seabirds and wetland and waterbirds in Lough Swilly SPA.	No. Please see explanation below	No. Please see explanation below
Wetland and Waterbirds [A999]	To maintain the favourable conservation condition of the wetland habitat in Lough Swilly SPA as a resource for the regularly-occurring migratory waterbirds that utilise it	No. Please see explanation below	No. Please see explanation below

Surface Water

In terms of surface water, the proposed development is to connect to a furrow (indicated as a 'sheugh' on submitted particulars) which is directed to a surface drain that enters a watercourse to the south of the proposal. Drainage from the livestock pens will be directed into the effluent tank.

I note that standard best practice construction measures would be employed at construction stage to prevent pollutants entering the furrow and drain outflowing towards the watercourse. To this end, any significant impacts on water quality within the Leannan River SAC and by extension, Lough Swilly SAC and Lough Swilly SPA, resulting from contaminated surface water run-off are unlikely as it is my consideration that any potential pollutants which may outflow from the proposed development to the drains and subsequently enter the watercourse would be subject to various dilution and dispersion.

Furthermore, standard condition(s) will require the surface water system to be designed to the satisfaction of the Planning Authority and this drainage system will be designed so as to prevent contaminated storm/surface water entering the furrow/drain and the watercourse. The attachment of drainage condition(s), in my view, is a standard pollution control measure and would be included on any development of this nature, notwithstanding any proximity to, or any hydrological connections to, a designated Natura 2000 site. I note that this is not a mitigation measure that is designed specifically to avoid impacts on any designated Natura 2000 site(s).

At operational stage, effluent generated from the proposed development would be directed to the underground storage tank. This effluent storage tank would be

required to be designed and sealed in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations (as amended). I consider that this arrangement for storage would enable water quality within the Leannan River SAC and by extension, the Lough Swilly SAC and Lough Swilly SPA) to be protected.

The Board shall note that the carrying out of land spreading does not form a specified part of this application. The particulars with the appeal file indicate that current livestock numbers will not be increased and that the proposed development is to afford adequate space for existing livestock on this family farm. Notwithstanding, I note that the application of fertilisers is regulated under the European Union (Good Agricultural Practice for Protection of Waters) Regulations (2022). These regulations contain specific measures to protect surface waters and groundwater from nutrient pollution arising from agricultural sources. Such measures include that there should be no land spreading within 5-10 metres of a watercourse.

Ground Water

In relation to potential ground water impacts, I note that the proposed development would not require significant excavations other than the groundworks associated with the construction of the agricultural shed, effluent storage tank and livestock pens. Best practice construction measures will serve to protect groundwater. Even if these standard construction measures should not be fully implemented or should they fail to work as intended, the indirect hydrological link via groundwater represents a weak ecological connection, given the distance to the nearest European Site - Leannan River SAC (which is 2.69km from the site at the closest point over land and 5.67km via watercourse flow). As such, any pollutants from the site that should enter groundwater during the construction stage, via spillage onto the overlying soils or by way of spillage into the nearby furrow, will be subject to dilution and dispersion within the groundwater body, rendering any significant impacts on water quality within the Leannan River SAC and by extension, the Lough Swilly SAC and Lough Swilly SPA) unlikely.

At operational stage, and as outlined with regard to the surface water impacts, the underground effluent storage tank is required to be designed and sealed in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations (2022) and in this manner ground water quality will be protected. I note that the best practice measures that would be adhered to at construction stage, and the relevant regulations and standard conditions that will be required to be adhered to at operational stage, are not mitigation measures intended to reduce or avoid any harmful effect on any Natura 2000 site and would be employed by any competent operator, notwithstanding any proximity to any designated Natura 2000 site.

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

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

Having regard to the appeal file, I am satisfied that there is no available evidence in respect of any plans or projects that are proposed/permitted which could impact with the proposed development. As such, it is my opinion that no in-combination issues arise.

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:

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:

- The nature and extent of the proposed development.
- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same.
- Distance from European Sites.

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