



An  
Coimisiún  
Pleanála

## Inspector's Report

### ABP-320883-24

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Construction of a dwelling and all associated site works. A Natura Impact Statement (NIS) accompanies this application. |
| <b>Location</b>                     | Culoort, Malin Head, Co. Donegal  |
| <b>Planning Authority</b>           | Donegal County Council  |
| <b>Planning Authority Reg. Ref.</b> | 2351408   |
| <b>Applicant(s)</b>                 | Emer Gallagher  |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Refuse  |
| <b>Type of Appeal</b>               | First Party   |
| <b>Appellant(s)</b>                 | Emer Gallagher  |
| <b>Observer(s)</b>                  | None  |
| <b>Date of Site Inspection</b>      | 3 <sup>rd</sup> March 2025  |
| <b>Inspector</b>                    | Terence McLellan  |

## **1.0 Site Location and Description**

- 1.1. The subject site refers to a 0.35 hectare triangular plot located in Culoort, Malin Head. The site is accessed from the L1001 local road and is situated approximately 0.5km to the south west of Ballygorman which is on the R242 regional road, and 275 metres due east of White Strand Bay.
- 1.2. The site currently comprises flat agricultural/grazing lands and it is enclosed by a low timber post and wire fence with drainage ditches on all sides. There are 3 no. one and a half storey dwellings on the site to the immediate north-east and further traditional single dwellings spread around the wider area.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for the erection of a single storey four-bedroom dwellinghouse with wastewater treatment plant and percolation area.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Permission was refused by Donegal County Council on the 29<sup>th</sup> August 2024 for the following reason:

1. The subject site is located in a position likely to impact on or have significant effect on the Malin Head SPA (site code 004146). It is a policy of the County Donegal Development Plan, 2024-2030 that “Proposals for individual dwellings need to avoid any adverse impact on Natura 2000 sites” (Policy RH-P-9) and “to require all developments to comply with the requirements of the EU Habitats Directive and EU Bird Directive, including ensuring that development proposals do not adversely affect the integrity of any European/Natura 2000 site (i.e. Special Areas of Conservation and Special Protection Areas)” (Policy BIO-P-1). On the basis of the information submitted in support of the planning application, including the Natura Impact Statement detailing likely impact of the proposed development on the conservation objectives and qualifying interests of the Malin Head SPA

(site code 004146), the Planning Authority is not satisfied that the proposed development individually, or in combination with other plans or projects would not have a significant impact on the integrity of the Natura 2000 site. Accordingly, to permit the proposed development would be in breach of Article 6 of the Habitats Directive; would materially contravene Policy RH-P-9 and BIO-P-1 of the County Development Plan 2024-2030 (which, inter alia, seeks to protect Natura 2000 sites), and would thus be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

3.2.1. The first Planner's Report, dated the 2<sup>nd</sup> November 2023, contains the following points of note:

- The principle of development is considered acceptable, and it is considered that the Applicant has demonstrated rural housing need and intrinsic links to the area.
- Low pitched roof design would be at variance with the surrounding character of development and not in accordance with traditional design. Fenestration is excessively horizontal and suburban in form.
- No residential amenity impacts are foreseen. Adequate sight lines can be achieved at the access. Water supply, wastewater, and drainage are acceptable subject to conditions.
- The site is within the Malin Head SPA. There does not appear to have been ornithologist input into the NIS. A breeding season survey should be carried out to assess the use of this site by Corncrakes associated with the SPA.
- Having regard to habitat types reported in the NIS, it is considered that the NIS does not reference up-to-date data regarding dates/times and locations of Corncrake sightings within the site and vicinity. This view is informed by historical data/photos, and information from the Corncrake Life Project.
- Further information was requested regarding:
  - Revised plans and design to accord with Appendix 4 of Part B of the rural housing design guide.

- Completion of a Corncrake survey for the site and surrounding lands, to be carried out over a suitable time period by a person suitably qualified in ornithology.
- Submission of a report based on the above results and on up-to-date verifiable and scientifically objective information on the presence or lack of Corncrakes as an addendum to the NIS.

3.2.2. Further Information was submitted by the Applicant and received by the Planning Authority on the 7<sup>th</sup> August 2024. This was considered in the second Planner's Report, dated 23<sup>rd</sup> August 2024, which contained the following points of note:

- The design related issues have been suitably addressed by the scheme amendments, with increased roof pitch and a change in fenestration emphasising a stronger vertical composition.
- The NIS addendum included a Corncrake survey reporting no Corncrake recorded on the site at the time of the survey visit. NPWS advise that calling Corncrake were recorded in the vicinity of the site (up to 1km) but not within the boundary of the site.
- The addendum notes that the habitat on the site is not suitable for breeding. Reference is made to the LIFE project which confirmed the recording of Corncrake in the area, but that overall population was below targets.
- The response of the Department of Housing, Local Government and Heritage is noted regarding irreversible loss of potential habitat and the need for the SPA to be meeting its conservation objectives in order for an evidence-based assessment of the loss of habitat to be undertaken.
- Precedent examples provided by the Applicant are not considered comparable.
- It is considered that the development would result in significant negative impacts on the Malin Head SPA through the loss of potential Corncrake habitat.

3.2.3. The second Planner's Report concluded that permission should be refused, for the reason set out in Section 3.1 above.

### 3.3. Other Technical Reports

3.3.1. **Environmental Health Officer (10.10.2023):** No objections raised. A comprehensive list of conditions is recommended for the wastewater treatment system.

#### 3.4. **Prescribed Bodies**

3.4.1. **Department of Housing, Local Government and Heritage (19.08.2024):** Appropriate Assessment determinations must contain complete, precise, and definitive findings and conclusions with regard to implications on the conservation objectives and integrity of European sites. Whilst noting the findings of the NIS regarding the current state of the site not being suitable for Corncrake, the site does have habitat potential if it were returned to the previous grassland management.

3.4.2. The proposed development would result in a permanent and irreversible loss of potential Corncrake habitat from the Malin Head SPA, and the NIS does not propose any alternative grassland management to mitigate this loss of potential habitat or the ability of the SPA to meet its conservation objectives.

3.4.3. Decisions likely to result in a loss of Corncrake habitat/potential habitat should be avoided until the Malin Head SPA reaches the designated population target. An evidence based assessment of the impact of habitat loss on the site cannot be made until the Corncrake population is at a level that shows the SPA is functioning as planned.

3.4.4. The SPA is currently not meeting its Conservation Objectives and until then, development within the Malin Head SPA will have a de facto adverse impact on habitat availability. Proposed mitigation cannot ameliorate this loss of habitat and cumulative losses will cause significant impacts to the Corncrake population.

3.4.5. **Uisce Éireann (20.10.2023):** No objections raised. The Applicant would be required to enter into connection agreements and adhere to Uisce Éireann's Standard Details and Codes of Practice. Uisce Éireann advises that build over of assets is not permitted. Any diversion of services shall have received written Confirmation of Feasibility of Diversions prior to the commencement of works.

### 3.5. Third Party Observations

- 3.5.1. No submissions were received from third parties. The Planner's Report notes the submission of a Bona Fide letter from Councillor Martin McDermott confirming the Applicant's rural housing need.

## 4.0 Planning History

- 4.1. There is no planning history available for the subject site or adjacent sites that is of relevance.

## 5.0 Policy Context

### 5.1. Donegal County Development Plan 2024-2030

- 5.1.1. The first Planner's Report assessed the proposed development against the policies of the Donegal County Development Plan 2018-2024. This was superseded by the 2024-2030 County Development Plan which came into effect on the 26<sup>th</sup> June 2024. This is reflected in the assessment in the second Planner's Report.
- 5.1.2. The site is located within a 'Structurally Weak Rural Area' and an 'Area of High Scenic Amenity'. High scenic amenity is described as: *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 Co. 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. 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.
- 5.1.4. Chapter 6 contains the housing policies. Relevant policies and objectives include:

- RH-O-4: To ensure that rural housing is located, designed and constructed in a manner that does not detract from the character or quality of the receiving landscape having particular regard to Map 11.1: 'Scenic Amenity' of this Plan.
- RH-P-3: To consider proposals for new one-off housing within 'Structurally Weak Rural Areas' from any prospective applicants for a dwelling house, subject to siting and design considerations and compliance with all other relevant policies of this Plan including Policy RH-P-9. New holiday homes will not be permitted in these areas.
- RH-P-9: (a) Proposals for individual dwellings (including refurbishment, replacement and/or extension projects) shall be sited and designed in a manner that is sensitive to the integrity and character of rural areas as identified in Map 11.1: 'Scenic Amenity' of this Plan, and that enables the development to be assimilated into the receiving landscape. Proposals shall be subject to the application of best practice in relation to the siting, location and design of rural housing as set out in Donegal County Council's 'Rural Housing Location, Siting and Design Guide'. In applying these principles, the Council will be guided by the following considerations:
  - i. A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in the rural area;
  - ii. A proposed dwelling shall not create or add to ribbon development (see definitions);
  - iii. A proposed dwelling shall not result in a development which by its positioning, siting or location would be detrimental to the amenity of the area or of other rural dwellers or would constitute haphazard development;
  - iv. A proposed dwelling will be unacceptable where it is prominent in the landscape;
  - v. A proposed new dwelling will be unacceptable where it fails to blend with the landform, existing trees or vegetation, buildings, slopes or other natural features which can help its integration. Proposals for development involving extensive or significant excavation or infilling will

not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. The extent of excavation that may be considered will depend upon the circumstances of the case, including the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings.

b) Proposals for individual dwellings shall also be assessed against the following criteria:

- i. The need to avoid any adverse impact on Natura 2000 sites or other designated habitats of conservation importance, prospects or views including views covered by Policy L-P-8.
- ii. The need to avoid any negative impacts on protected areas defined by the River Basin District Plan in place at the time.
- iii. The site access/egress being configured in a manner that does not constitute a hazard to road users or significantly scar the landscape.
- iv. The safe and efficient disposal of effluent and surface waters in a manner that does not pose a risk to public health and accords with Environmental Protection Agency codes of practice.
- v. Compliance with the flood risk management policies of this Plan.

c) In the event of a grant of permission the Council will attach an Occupancy condition which may require the completion of a legal agreement under S47 of the Planning and Development Act 2000 (as amended).

5.1.5. Chapter 11 contains policies and objectives regarding natural, built and archaeological heritage. Relevant policies include:

- BIO-P-1: To require all developments to comply with the requirements of the EU Habitats Directive and EU Bird Directive, including ensuring that development proposals:
  - a) Do not adversely affect the integrity of any European/Natura 2000 site (i.e. Special Areas of Conservation and Special Protection Areas)



including effects on ex-situ but functionally linked habitats, and species (e.g. Pearl Mussel) save where a plan must be carried out for imperative reasons of overriding public interest (IROPI).

- b) Provide for the protection of animal and plant species listed in Annex IV of the EU Habitats Directive and the Flora Protection Order.
- c) Protect and enhance features of the landscape (such as rivers, riverbanks, field boundaries, ponds and small woods) which are of major importance for wild fauna and flora and the ecological coherence of the Natura 2000 network.

5.1.6. Rural Housing Location, Siting and Design Guide 2024-2030.

## **5.2. Natural Heritage Designations**

5.2.1. The site is located within the Malin Head SPA (Site Code: 004146). The site is also located c. 260 metres due east of the North Inishowen Coast SAC (Site Code: 002012).

## **5.3. EIA Screening**

5.3.1. The proposed development has been subject to preliminary examination for Environmental Impact Assessment (refer to Form 1 and Form 2 in the Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A First Party appeal has been received from Emer Gallagher against the decision of Donegal County Council to refuse planning permission. The grounds of appeal can be summarised as follows:

- Acknowledge the site location within an SPA. The development was designed to ensure potential ecological concerns were addressed.
- The NIS recommends 38 mitigation measures and, on that basis, concludes that there would be no significant adverse effects.
- A Corncrake survey was undertaken at FI Stage, no Corncrakes were recorded. This was reiterated in the addendum to the NIS and the loss of agricultural grassland habitat would not negatively impact Corncrake populations within the SPA.
- It was proposed to create a patch of early and late cover (ELC) around the site boundary, providing an opportunity to enhance cover within the SPA.
- DCC's refusal conflicts with the objective expert advice and was not given due consideration.
- A letter from the Department of Housing, Local Government, and Heritage appears to have been instrumental in the decision reached, on the basis that the site has Corncrake habitat potential if it were returned to the previous grassland management.
- The landowner has no intention of making this site into suitable habitat for Corncrake in the future. If the development does not proceed it will be ploughed and converted to grassland for livestock grazing. This would have a more negative effect on the SPA than the opportunity proposed as part of the development to create additional ELC.
- The landowner has been supportive of the Malin SPA and Corncrake Life scheme but may be less inclined to support such initiatives in the future.
- The landowner has no access to additional land to offer alternative grassland management.
- The Dept recommend that decisions likely to result in a loss of Corncrake habitat are avoided until the corncrake population in Malin head SPA reaches its population target. The Planner's Report states that it cannot be determined if the Malin Head SPA is meeting its objective until the LIFE project is complete. This undermines the basis of the Dept's argument.
- It is implied that there is a moratorium on any decisions that could potentially impact the Corncrake habitat until a population target is reached. Reaching population targets for Corncrakes is likely to take a considerable amount of time

and may not be achievable due to factors beyond local control, such as climate change, broader habitat loss, and/or migration patterns.

- Delaying residential projects in the Malin Head SPA is impractical, overly restrictive and conflicts with other policies of the CDP.
- Objective evidence collated by expert ecologists and an ornithologist has been provided which shows the proposed development could proceed with appropriate mitigation measures in place to protect Corncrake populations.
- The fact that the Malin Head SPA has not reached its targets in most years since its designation is not a new development and historically has not prevented the Council from approving planning applications within the SPA and/or its surrounding boundary. Examples include (18/50937, 17/51703, and 23/50151).
- If the Council intend to implement a blanket policy of refusing planning applications in Malin Head's SPA until the area meets its designated Corncrake population target, it should carry out a public consultation to ensure transparency and comply with relevant planning laws and regulations and should, from an ethical standpoint, refrain from accepting applications and the associated fees from within the Malin Head SPA.
- There are a significant number of homes in the area affected by mica/pyrite, which has negatively impacted on the availability of housing and the CDP acknowledge the need to consider one-off housing on rural areas where need can be demonstrated.
- It is submitted by the Appellant that this need is met by being lifelong residents of Malin Head who are both employed in the local area with children who they wish to be enrolled in the local primary school. Additionally, the Appellant is the primary caregiver to their father. There is a need for secure, stable, long term housing in the area and they have been unable to source suitable housing.
- There are examples of planning permission for housing where need has not been demonstrated, including holiday/second homes (19/51380, 11/70284).
- There is a declining population in the local area, if appropriate housing cannot be secured then the Appellant and their family will be forced to leave which would further diminish the local population and have economic and social repercussions for the community.

## **6.2. Planning Authority Response**

- 6.2.1. The Planning Authority notes the substance of the appeal and considers that the issues raised have been dealt with in the Executive Planner's Report.

## **6.3. Observations**

- 6.3.1. None.

## **6.4. Further Responses**

- 6.4.1. None.

## **7.0 Assessment**

- 7.1. 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:

- Local Need
- Other Matters
- Appropriate Assessment (See Section 8 and 9, and Appendices 3 and 4)

## **7.2. Local Need**

- 7.2.1. The matter of demonstrating local need was addressed in the Planner's Report and is referred to in the grounds of appeal. The Commission should note that the Donegal County Development Plan 2024-2030 was adopted during the course of the application. Previous housing policies for structurally weak rural areas required a demonstration of need. The 2024-2030 CDP Policy RH-P-3 essentially removes this requirement and states that the Planning Authority will consider proposals for new one-off housing within 'Structurally Weak Rural Areas' from any prospective applicants for a dwelling house, subject to siting and design considerations and compliance with all

other relevant policies of this Plan including Policy RH-P-9. New holiday homes will not be permitted in these areas. In this respect, the matter of need no longer has to be demonstrated and the principle of development is acceptable.

### **7.3. Other Matters**

- 7.3.1. I note the conditions recommended by the Environmental Health Officer setting out minimum distances of the percolation area/polishing filter from boundaries, streams, the proposed dwelling etc. It is clear that some of these minimum distances would not be met with the percolation area/polishing filter in its proposed location. However, there is adequate room within the site for it to be repositioned to meet these requirements and this should be secured by condition in the event that the Commission grant permission.

## **8.0 Appropriate Assessment Screening - Stage 1**

- 8.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the Malin Head SPA and the North Inishowen Coast SAC in view of the conservation objectives and qualifying interests of those sites.
- 8.2. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

## **9.0 Appropriate Assessment Stage 2 – Natura Impact Statement**

- 9.1. The Commission will note that the primary issue in the appeal relates to the impact of the development on the Malin Head SPA. All matters raised in relation to this issue are assessed and considered in my Appropriate Assessment which is set out in Appendix 2.
- 9.2. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on the Malin Head SPA and the North Inishowen Coast SAC in view of the conservation objectives and qualifying interests of those sites and that Appropriate Assessment under the provisions of S177U was required.

- 9.3. Following an examination, analysis and evaluation of the NIS and all associated material submitted, I consider that adverse effects on site integrity of the North Inishowen Coast SAC can be excluded in view of the conservation objectives of this site and that no reasonable scientific doubt remains as to the absence of such effects. My conclusion is based on the detailed assessment of site clearance, construction and operational impacts, the effectiveness of proposed mitigation measures, and the use of planning conditions to ensure employment of these measures. I am therefore satisfied that the proposed development will not affect the attainment of conservation objectives for the North Inishowen Coast SAC.
- 9.4. In terms of the Malin Head SPA, following an examination, analysis and evaluation of the NIS, NIS Addendum, all associated material submitted with the application and appeal, and taking into account observations on nature conservation and the Conservation Objectives and Qualifying Interests of the SPA, I am not satisfied that it can be determined beyond reasonable scientific doubt that the proposed development, either individually or in combination with other plans or projects, would not have an adverse impact on Corncrake, which is a species of conservation interest for the SPA. As such, I am not satisfied that the development would not be likely to have an adverse effect on the integrity of the Malin Head SPA in view of the site's Conservation Objectives.

## **10.0 Water Framework Directive**

- 10.1. There are open drains on all sides of the site. These feed discharge to the Malin Stream (at risk) and onwards to the Keenagh River (not at risk). The site sits on the East Inishowen Groundwater Body (not at risk). The proposed development comprises the construction of a single dwelling house with wastewater treatment plant. No water deterioration concerns were raised in the planning appeal. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.
- 10.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to

any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- The nature and scale of the works;
- The installation of a Wastewater Treatment System, appropriately sized to the development and the use of conditions to ensure its appropriate installation, functioning, and maintenance.
- Surface water runoff to pass through a bypass separator, to be cleaned on a regular basis by a licensed operator with records maintained.
- Implementation of mitigation measures set out in the NIS.

10.3. I conclude on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## **11.0 Recommendation**

11.1. I recommend that that the Commission uphold the decision of Donegal County Council and refuse planning permission.

## **12.0 Reasons and Considerations**

12.1. Having regard to the location of the subject site within the Malin Head SPA (Site Code: 004146), the Conservation Objectives and Qualifying Interests of the SPA, and on the basis of the information submitted with the application and appeal, including the findings of the Stage 2 Appropriate Assessment and Addendum, the Commission is not satisfied that it can be determined beyond reasonable scientific doubt that the proposed development, either individually or in combination with other plans or projects, would not have an adverse impact on Corncrake, which is a species of conservation interest for the SPA. As such, the Commission cannot be satisfied that the development would not be likely to have an adverse effect on the integrity of the Malin Head SPA in view of the site's Conservation Objectives. In such circumstances, the Commission is precluded from granting permission. Furthermore, the proposed

development would be contrary to Policies RH-P-9 and BIO-P-1 of the Donegal County Development Plan 2024-2030 which seek to ensure that development proposals do not adversely affect the integrity of any European/Natura 2000 site 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.

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Terence McLellan  
Senior Planning Inspector

23<sup>rd</sup> October 2025



## Appendix 1 - Form 1 - EIA Pre-Screening

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| <b>Case Reference</b>   | ABP-320883-24   |
| <b>Proposed Development Summary</b>   | Construction of a dwelling and all associated site works. A Natura Impact Statement (NIS) accompanies this application. |
| <b>Development Address</b>  | Culoort, Malin Head, County Donegal   |
|   | <b>In all cases check box /or leave blank</b>   |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br><br>(For the purposes of the Directive, "Project" means:<br>- The execution of construction works or of other installations or schemes,<br><br>- Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) | <input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  |
|   | <input type="checkbox"/> No, No further action required.  |
| <b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>   |   |
| <input type="checkbox"/> Yes, it is a Class specified in Part 1.<br><br><b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>   |   |
| <input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3  |   |
| <b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>   |   |
| <input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road  |   |

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| development under Article 8 of the Roads Regulations, 1994.<br><br><b>No Screening required.</b>  |                                    |
| <input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.<br><br><b>EIA is Mandatory. No Screening Required</b>   |                                    |
| <input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.<br><br><b>Preliminary examination required. (Form 2)</b><br><br><b>OR</b><br><br><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b> | Class 10 (b)(i) - > 500 dwellings. |

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| <b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b> |   |
| Yes <input type="checkbox"/>  |   |
| No <input checked="" type="checkbox"/>  | <b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b> |

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Appendix 2 - Form 2 - EIA Preliminary Examination

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| <b>Case Reference</b>  | ABP-320883-24  |
| <b>Proposed Development Summary</b>  | Construction of a dwelling and all associated site works. A Natura Impact Statement (NIS) accompanies this application.  |
| <b>Development Address</b>   | Culoort, Malin Head, County Donegal.   |
| <b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>  |  |
| <b>Characteristics of proposed development</b><br><br>(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health). | <p>The proposed development would provide a new dwelling. It would be consistent with the scale and appearance of other dwellings in the area.</p> <p>No demolition works would be required. Construction materials and activities would be typical for a residential development of this nature and scale.</p> <p>The use of fuels and materials would be typical for construction sites. Construction impacts would be local and temporary in nature, could be suitably managed through a Construction Environmental Management Plan and the implementation of measures set out in the NIS.</p> <p>In terms of accidents, no significant risk is anticipated having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised and temporary in nature.</p> <p>No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.</p> <p>The development would involve the use of land which is designated as part of the Malin Head SPA and as such could result in the loss of habitat. However, given the nature and scope of the development, this is more appropriately considered as part of the NIS rather than an EIAR.</p> |
| <b>Location of development</b><br><br>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved  | A set out above, the site is located in the Malin Head SPA, a Natura 2000 site. The development would result in the loss of habitat/potential habitat and as such could have a significant effect on the SPA. However, given the   |

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| land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).                  | nature and scope of the development, this is more appropriately considered as part of the NIS rather than an EIA.  |
| <b>Types and characteristics of potential impacts</b><br><br>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation). | All development has the potential for a degree of disturbance/nuisance during the construction phase such as noise, vibration, dust, air quality and traffic. However, these impacts would be short term and temporary and can be appropriately managed and mitigated by way of conditions and the implementation of measures set out in the NIS |
| <b>Conclusion</b>  |  |
| <b>Likelihood of Significant Effects</b>   | <b>Conclusion in respect of EIA</b>  |
| <b>There is no real likelihood of significant effects on the environment.</b>  | <b>EIA is not required.</b>  |

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIA required)

## Appendix 3 - AA Screening Determination Template

| Screening for Appropriate Assessment<br>Test for likely significant effects                  |   |
|--|---|
| <b>Step 1: Description of the project and local site characteristics</b>                     |   |
| <b>Brief description of project</b>  | Erection of a single storey, four-bedroom dwellinghouse with wastewater treatment plant and percolation area.   |
| <b>Brief description of development site characteristics and potential impact mechanisms</b> | The subject site refers to a 0.35 hectare triangular plot located in Culoort, Malin Head. The site is accessed from the L1001 local road and is situated approximately 0.5km to the south west of Ballygorman, which is on the R242 regional road, and 275 metres due east of White Strand Bay. The site currently comprises flat agricultural/grazing lands and it is enclosed by a low timber post and wire fence with drainage ditches on all sides. There are 3 no. one and a half storey dwellings on the site to the immediate north-east and further traditional single dwellings spread around the wider area. The site is located within the Malin Head SPA and within 300m of the North Inishowen Coast SAC. Potential impact mechanisms relate to the loss of habitat/habitat degradation and water quality reductions as a result of polluting material entering hydrological pathways. |
| <b>Screening report</b>  | Screening Report for Appropriate Assessment, prepared by Greentrack Environmental Consultants, dated August 2023.   |
| <b>Natura Impact Statement</b>   | Natura Impact Statement, prepared by Greentrack Environmental Consultants, dated August 2003.<br><br>Addendum to Natura Impact Statement, prepared by Greentrack Environmental Consultants, dated July 2004.  |

| <b>Relevant submissions</b>  |  | Department of Housing, Local Government, and Heritage.<br>See Section 3.4 of the Inspector’s Report. |  |   |
|--|--|--|--|---|
| The addendum to the NIS includes a Corncrake Survey, dated June 2024 and prepared by Canavan Associates.   |  |  |  |   |
| <b>Step 2. Identification of relevant European sites using the Source-pathway-receptor model</b>   |  |  |  |   |
| The screening report considered sites within a 15km Zone of Influence. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination. |  |  |  |   |
| European Site (code)   | Qualifying interests <sup>1</sup><br>Link to conservation objectives (NPWS, date)  | Distance from proposed development (km)  | Ecological connections <sup>2</sup>                    | Consider further in screening <sup>3</sup><br>Y/N |
| <b>Malin Head SPA</b><br><br>Site Code: 004146   | To restore the favourable conservation condition of Corncrake in Malin Head SPA.<br><br>A122 – Corncrake <i>crex crex</i><br><br>Link to Conservation Objectives: <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004146.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004146.pdf</a>                            | The site is located centrally within the SPA   | Location within the SPA and loss of potential habitat. | Yes.  |
| <b>North Inishowan Coast SAC</b><br><br>Site Code: 002012  | To maintain the favourable conservation condition of:<br><br>1140 - Mudflats and sandflats not covered by seawater at low tide<br><br>1220 - Perennial vegetation of stony banks<br><br>1230 - Vegetated sea cliffs of the Atlantic and Baltic coasts.<br><br>4030 – European dry heaths.<br><br>1014 – Narrow Mouthed Whorl Snail <i>Vertigo angustior</i> .<br><br>1355 – Otter <i>Lutra lutra</i> | c.260 metres due west of the subject site.   | Potential surface water pathways.                      | Yes.  |

|  |   |  |  |  |
|--|---|--|--|--|
|  | <p>To restore the favourable conservation condition of:</p> <p>2130 - Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>21A0 - Machairs (* in Ireland)</p> <p>Link to Conservation Objectives:<br/> <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002012.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002012.pdf</a> </p> |  |  |  |
|  |   |  |  |  |

Site walkovers for the reporting survey were undertaken in June 2023 noting that the site was predominantly improved agricultural grassland (GA1) with scrub (WS1) noted along the site borders. Drainage ditches were noted along the southern boundary. From my site inspection there is also a drainage ditch along the western site boundary along the road frontage and a drainage ditch along the northern boundary which is overgrown.

### Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

The development would have a direct impact on the Malin Head SPA through the loss of potential Corncrake habitat. Corncrake is the only qualifying interest for this European site.

Whilst the development would not have a direct impact on the North Inishowen Coast SAC, proximity, surface water drainage and potential construction phase impacts are such that indirect effects could occur.

The subject site is located on the East Inishowen Groundwater Body and, as such, groundwater pollution, as a result of construction activity and operational activity, is a potential impact mechanism.

Sources of impact and likely significant effects are detailed in the table below.

#### AA Screening matrix

| Site name<br>Qualifying interests                         | Possibility of significant effects (alone) in view of the conservation objectives of the site* |   |
|---|--|---|
|   | Impacts  | Effects   |
| <b>Site 1: Malin Head SPA</b><br><b>Site Code: 004146</b> | Direct: Habitat degradation/loss of potential Corncrake habitat.                               | <p>The development would result in the loss of potential corncrake habitat through habitat loss and degradation/fragmentation.</p> <p>The Malin Head SPA has a restore objective. The loss of the site to</p> |

|   |   |   |
|---|---|---|
|   |   | residential use could compromise the restoration objective and threaten the achievement of Conservation Objectives.   |
|   | <b>Likelihood of significant effects from proposed development (alone):</b><br>Yes.   |   |
|   | <b>Impacts</b>  | <b>Effects</b>  |
| <b>Site 2: North Inishowen Coast SAC</b><br>Site Code: 002012   | <p>There is a hydrological connection to the SAC. Water quality degradation through increased sedimentation during site works and pollution incidents from accidental spillages and release of construction related compounds including hydrocarbons to surface water.</p> <p>Potential disturbance.</p> <p>Potential spread of invasive species.</p> | <p>A surface water pathway exists from the subject site to the SAC. There is a secondary pathway through groundwater. Pathways could introduce water to the SAC containing silt, nutrients or pollutants which could negatively affect water quality. This pathway for effect exists at the construction stage with construction surface water run-off representing the source.</p> <p>At operation, operational surface water run-off could discharge silt and hydrocarbons towards the SAC.</p> <p>This could result in potential damage to habitats and QI species depending on water quality.</p> |
|   | <b>Likelihood of significant effects from proposed development (alone):</b><br>Yes.   |   |
|   | <b>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</b>   |   |
| I note the concerns raised by the Planning Authority regarding:   |   |   |
| <ul style="list-style-type: none"><li>• Involvement of a qualified ornithologist.</li><li>• Completion of a Corncrake Survey.</li></ul> |   |   |



- The need to base assessment on up-to-date verifiable and scientifically objective information.

This resulted in the submission of an addendum report to the NIS which is considered further in the Appropriate Assessment. The Applicant's Screening Report concludes that both the Malin Head SPA and the North Inishowen Coast SAC could experience potential negative effects in the absence of further assessment and mitigation.

**Step 4 Conclude if the proposed development could result in likely significant effects on a European site**

Based on the information provided in the screening report, my site inspection, and a review of the conservation objectives and supporting documents, I consider that, in the absence of further assessment and potential mitigation measures, the proposed development has the potential to result in significant effects on the Malin Head SPA and, the North Inishowen Coast SAC.

**Screening Determination**

**Significant effects cannot be excluded**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone would give rise to significant effects on the Malin Head SPA and, the North Inishowen Coast SAC European Sites in view of the relevant conservation objectives. A Stage 2 Appropriate Assessment is therefore required.

## Appendix 4 – Appropriate Assessment

### Appropriate Assessment

The requirements of Article 6(3) as related to Appropriate Assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an Appropriate Assessment of the implications of the proposed development in view of the relevant conservation objectives of the Malin Head SPA and the North Inishowen Coast SAC based on scientific information provided by the Applicant and considering expert opinion through observations on nature conservation.

The information relied upon includes the following:

- Natura Impact Statement prepared by Greentrack Environmental Consultants (August 2023).
- Addendum to Natura Impact Statement prepared by Greentrack Environmental Consultants (July 2024).
- Corncrake Survey prepared by Canavan Associates (June 2024).
- Information on the NPWS website.

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. All aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

### Submissions/observations

#### Department of Heritage, Local Government and Heritage

- Appropriate Assessment determinations must contain complete, precise, and definitive findings and conclusions with regard to implications on the Conservation Objectives and integrity of European sites. Whilst noting the findings of the NIS regarding the current state of the site not being suitable for Corncrake, the site does have habitat potential if it were returned to the previous grassland management.

- The proposed development would result in a permanent and irreversible loss of potential Corncrake habitat from the Malin Head SPA, and the NIS does not propose any alternative grassland management to mitigate this loss of potential habitat or the ability of the SPA to meet its Conservation Objectives.
- Decisions likely to result in a loss of Corncrake habitat/potential habitat should be avoided until the Malin Head SPA reaches the designated population target. An evidence based assessment of the impact of habitat loss on the site cannot be made until the Corncrake population is at a level that shows the SPA is functioning as planned.
- The SPA is currently not meeting its Conservation Objectives and until then, development within the Malin Head SPA will have a de facto adverse impact on habitat availability. Proposed mitigation cannot ameliorate this loss of habitat and cumulative losses will cause significant impacts to the Corncrake population.

#### European sites

##### Malin Head SPA (004146):

##### Summary of Key issues that could give rise to adverse effects (from screening stage):

##### (i) Habitat Loss/Degradation

| Qualifying Interest features likely to be affected | Conservation Objectives<br>Targets and attributes<br>(as relevant -summary)  | Potential adverse effects   | Mitigation measures<br>(summary)<br><br>NIS Table 6.2<br>and Section 4 of<br>NIS Addendum.  |
|--|--|---|---|
| A122 - Corncrake<br><i>Crex crex</i>               | <p>Restore favourable conservation condition.</p> <p>Population size: Restore to average of 6 calling males in any consecutive five year period.</p> <p>Population trend: Long term population trend stable or increasing.</p> <p>Spatial utilisation: Restore utilisation of the SPA by</p> | Permanent loss of habitat/potential habitat and habitat degradation/fragmentation within the SPA. | No specific mitigation measures set out in NIS. The addendum makes reference to opportunities to create additional ELC (early/late cover) within the site boundary but states this is not mitigation. |

|  |   |  |  |  |
|--|---|--|--|--|
|  | <p>breeding pairs to at least 20-40%</p> <p>Extent/condition of habitat: Restore extent and quantity to support above targets.</p> <p>Forage spatial distribution: Ensure sufficient number of locations and suitable habitat to support population targets.</p> <p>Disturbance: Disturbance to occur at levels that do not significantly impact on breeding Corncrake.</p> |  |  |  |
|--|---|--|--|--|

#### **Assessment of issues that could give rise to adverse effects:**

##### **(i) Habitat Loss/Degradation**

The site is located within the Malin Head SPA which has a Conservation Objective to restore the favourable conservation condition of Corncrake which is the only qualifying interest of the SPA. The Conservation Objectives were updated in July 2024. The development would result in the loss of habitat/potential habitat for Corncrake. The NIS and Addendum conclude that habitat loss and fragmentation are highly unlikely as there is no suitable habitat within the site footprint for Corncrake, noting that habitat within the subject site and its immediate environs is classified as improved agricultural grassland (GA1), buildings and artificial surfaces (BL3), and wet grassland (GS4), as set out in Figure 3.3 of the NIS.

The addendum to the NIS notes that a small number of Corncrake have been recorded within 500 meters of the subject site but that no Corncrake have been observed within the site boundary to date. The Corncrake Survey undertaken with the Addendum did not record Corncrake on the site. It is the conclusion of the NIS and Addendum that the development would not negatively impact on Corncrake populations within the Malin Head SPA due to its unsuitability for foraging and cover, stating that surrounding habitats within the SPA offer more appropriate conditions. Whilst not offered as mitigation, the NIS states that there may be opportunities to create ELC within the site boundary, arguing that a precedent has been set in relation to another planning approval. The addendum submits that on the basis of all other mitigation measures set out in the NIS (detailed below) being implemented, no significant impacts are foreseen for supporting habitats or Corncrake within the SPA.

The Conservation Objective is to restore the favourable conservation condition of Corncrake. The Malin Head SPA site synopsis acknowledges that the SPA comprises areas of agricultural grassland with the northern section being exposed and used mostly for grazing, and the southern section consisting of mixed agricultural land with meadow

and grazing pasture. The estimated spatial distribution of Corncrake in the SPA was only 15% for the period 2016-2023 (NPWS) against a target of 20-40%. Having regard to the restore objective, it is, in my view, implicit that the SPA is deficient in appropriate habitat and that restoration of suitable habitat is a contributory requirement in order to achieve the SPA Conservation Objective. Whilst I note the Applicants point that the site currently does not offer suitable habitat, this could be overcome and suitable habitat could be provided. The current land management on the site could be reversed and suitable habitat restored. On the other hand the proposed development would result in an irreversible loss of potential habitat that would run contrary to the sites Conservation Objectives and make achieving said Conservation Objectives more difficult. I note the submission in the grounds of appeal that the landowner has no intention of converting the site to suitable habitat and argues that if permission is refused then the site will be converted to grassland for livestock grazing. This is clearly a matter for the landowner however, I would advise the Commission that this would be reversible at a later date, whereas the development of the site for a dwelling would be permanent and irreversible.

In considering the specific measures and targets of the Conservation objectives, I note that the NPWS targets the restoration of an average of 6 calling males in any consecutive five year period, as well as targeting a population trend that is stable or increasing. The addendum to the NIS makes reference to information from the Corncrake LIFE project team who indicate that the number of calling males is below target levels. Whilst this excerpt states that the average number of calling males from 2019 to 2023 is six, I note the updated Conservation Objectives from the NPWS (which were updated in July 2024), that states categorically that for the period 2019-23, the SPA supported an average of 5 calling males. This is below the target level and demonstrates that the SPA is not currently achieving its Conservation Objectives.

I further note that NPWS data indicates a significant and sustained downward trend in the number of calling Corncrakes within the SPA. Additionally, the NPWS data for the SPA states that the average of 5 calling males for the period 2019-23 is of concern and indicates a decrease of 16.6% from the baseline period. Although I acknowledge that the Corncrake Survey did not record any Corncrake within the site boundary, I also note that information from the Corncrake Life Project, set out in the addendum, states that Corncrake have been recorded within 250 metres of the subject site on a regular basis. In my view this is important in the context of the NIS conclusions on habitat, noting that this would indicate that Corncrake were potentially using habitat that has been disregarded in the NIS as unsuitable.

The Department have stated that an evidence based assessment of the impact of habitat loss on the site cannot be made until the Corncrake population is at a level that shows the SPA is functioning as planned and that development within the Malin Head SPA will have a de facto adverse impact on habitat availability. The NPWS data states that optimal resilience for the population relies on birds utilising suitable habitat to the maximum extent, with the population well dispersed across the SPA and not confined to isolated locations. In my mind the loss of this site would be contrary to the stated Conservation Objectives as it would result in the permanent loss of potential habitat, noting that the objective is to restore. Whilst I note the small size of the site in proportion to the wider

SPA, I agree that the cumulative loss of such sites would have a significant effect on the SPA. It is my view that it would be inappropriate to grant permission for a development that would result in the loss of habitat/potential habitat where the SPA is not achieving its Conservation Objectives and I agree with the Department that a proper evidence based assessment cannot be conclusive until such time as the Conservation Objectives are being met and Corncrake populations are stable. I have considered the proposal in the NIS to provide some ELC however, I do not consider that this would suitably compensate for/mitigate for the loss of habitat and potential significant effects.

#### **Other Matters**

Various other matters regarding the proposed development and impacts on the SPA are raised in the grounds of appeal. I acknowledge the Applicant's concern regarding potential delays to development as a result of the time it may take for until the SPA to reach Corncrake population targets and note their view that this may not be achievable due to factors beyond local control, such as climate change, broader habitat loss, and/or migration patterns. Habitat loss is one of the key issues affecting the population, stability, and distribution of Corncrake in the SPA. The proposed development would result in the loss of habitat/potential habitat and would make achieving the Conservation objectives more difficult.

I note that Applicant's view that the SPA has not met its conservation targets in previous years and that this has not stopped the Planning Authority granting permission within the SPA. In terms of precedent examples provided, I note that some of them are outside of the SPA or only partially within the SPA. Furthermore, the permissions referred to were issued prior to the Conservation objective update in 2024. In my opinion they are not directly comparable.

I note the Applicant's points regarding housing pressures and the need to sustain the local population. There are other sites/lands within the wider area that are not within the SPA and any potential benefits of providing housing on the subject site would not in my mind override the requirement to ensure adequate protection of the SPA.

#### **In-combination effects**

Whilst I am satisfied that in-combination effects have been assessed adequately in the NIS and no other plans and projects could combine to generate significant effects, I would reiterate that the cumulative loss of such sites throughout the SPA would have a significant effect on habitat loss and achievement of the Conservation Objectives.

#### **Findings and conclusions**

The Planning Authority determined that the proposed development would, either alone **or in combination with other plans and projects**, adversely affect the integrity of this European site. Based on the information provided, I am not satisfied that adverse effects arising from the proposed development can be excluded for the Malin Head SPA. The proposed development would result in direct impacts through the loss of habitat/potential habitat with no suitable mitigation measures proposed.

#### **Reasonable scientific doubt**

I am of the view that reasonable scientific doubt remains as to the absence of adverse effects.

### Site Integrity

The proposed development would impede the attainment Conservation Objectives for the Malin Head SPA. Adverse effects on site integrity cannot be excluded, and it cannot be considered that no reasonable scientific doubt remains as to the absence of such effects.

### North Inishowen Coast SAC (002012):

#### Summary of Key issues that could give rise to adverse effects (from screening stage):

- (i) Water quality degradation
- (ii) Pollution from dust and noise
- (iii) Disturbance
- (iv) Invasive species

| Qualifying Interest features likely to be affected  | Conservation Objectives<br><br>Targets and attributes   | Potential adverse effects   | Mitigation measures<br><br>(summary)<br><br>See Table 6.2 of NIS.   |
|---|---|---|---|
| <p>1140 - Mudflats and sandflats not covered by seawater at low tide</p> <p>1220 - Perennial vegetation of stony banks</p> <p>1230 - Vegetated sea cliffs of the Atlantic and Baltic coasts.</p> <p>4030 – European dry heaths.</p> <p>1014 – Narrow Mouthed Whorl Snail <i>Vertigo angustior</i>.</p> <p>1355 – Otter <i>Lutra lutra</i></p> <p>2130 - Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>21A0 - Machairs (* in Ireland)</p> | <p>Maintain favourable conservation condition.</p> <p>To restore the favourable conservation condition.</p> | <p>Water resource quality degradation as a result of increased sedimentation, pollution incidents, spillages, lack of water management.</p> <p>Dust and noise generation.</p> <p>Accidental damage to surrounding Natura 2000 lands.</p> <p>Spread of invasive species.</p> | <p>A range of measures (38 points) are set out in Table 6.2 of the NIS.</p> <p>These include pollution control measures, construction water and surface water management, appropriate selection of plant, compliance with noise guidelines, prohibition on dumping of materials, plant inspection and hygiene measures.</p> |

|   |  |  |  |
|---|--|--|--|
| Link to Conservation Objectives:<br><a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002012.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002012.pdf</a> |  |  |  |
|---|--|--|--|

## Assessment of issues that could give rise to adverse effects:

### (i) Water quality degradation

Various risks identified at site clearance, construction, and operational stage that could result in the release of sediment, increased siltation, release of hydrocarbons and polluting materials.

#### Mitigation measures and conditions (summary)

##### Site Clearance

- Use of silt fences and settlement/attenuation ponds with regular inspection and appropriate collection.
- Removal of overburden in accordance with demand, controlled to reduce risk of silt laden runoff.

##### Construction

- Bunded storage area to be provided in-site for storage of fuels/chemicals.
- Base and walls of bund storage area to be impermeable, of adequate capacity, and compliant with EPA Guidelines.
- Storage of plant/equipment in areas less susceptible to pollution incidents, use of dry trays to prevent ground contamination, availability of spill kits.
- Daily inspection of plant. No defective plant to be used. Repair and maintenance to take place in dedicated area.
- Refuelling to take place in designated area, on an impenetrable surface, using a fully bunded bowser. Refuelling to be supervised and undertaken by trained personnel.

##### Operation

- Surface water runoff to pass through a bypass separator, to be cleaned on a regular basis by a licensed operator with records maintained.
- Wastewater treatment system to be installed in accordance with EPA code of practice by a suitably qualified professional, supervised by a chartered engineer.

### (ii) Pollution from Dust and Noise (summary)

Build up of dust could potentially be washed/blown into the natura 2000 sites, contributing to nutrient enrichment, and sedimentation. Noise could cause disturbance to humans and birds.

#### Mitigation measures and conditions

- Stockpile of soils/materials to be minimised and suitably located regarding prevailing winds and seasonal variation. Overburden to be sheeted and excess to be removed to a licensed facility.
- Cessation of clearance works during orange warnings.
- Roadway to be kept clean, speed limit of 15km/h to prevent dust generation, bowser spray down of overburden and materials during dry weather, use of sheeted vehicles, earthworks to be seeded or vegetated where appropriate.
- Use of windbreak netting/sheeting.



- Use of noise compliant plant, adherence to noise guidelines, appropriate maintenance of plant, use of exhaust silencers and sound reduced compressors.

**(iii) Disturbance (summary)**

Lights around the site could interfere with wildlife.

**Mitigation measures and conditions**

- Outdoor lighting to be hooded and limited to 10 watts.

**(iv) Invasive species (summary)**

Improper hygiene of machinery and vehicles could give rise to the spread of invasive species.

**Mitigation measures and conditions**

- Employment of good site/plant hygiene. Importation of materials to be from certified sources.

**In-combination effects**

I am satisfied that in-combination effects have been considered and that the applicant has demonstrated that there would be no no significant residual effects that could act in combination with other plans and projects to generate significant effects on the North Inishowen Coast SAC in view of its Conservation Objectives.

**Findings and conclusions**

The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, **or in combination with other plans and projects**, would not adversely affect the integrity of the North Inishowen Coast SAC in view of the relevant conservation objectives.

Based on the information provided, I am satisfied that adverse effects on the SAC arising from proposed development can be excluded. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent water resource quality degradation, disturbance, and the spread of invasive species. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented. No significant in combination effects are predicated.

**Reasonable scientific doubt**

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects on the North Inishowen Coast SAC.

**Site Integrity**

The proposed development would not affect the attainment Conservation Objectives for the North Inishowen Coast SAC. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

**Appropriate Assessment Conclusion**

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on the Malin Head SPA and the North Inishowen

Coast SAC in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

In terms of the North Inishowen Coast SAC, following an examination, analysis and evaluation of the NIS all associated material submitted, and taking into account observations on nature conservation, I consider that adverse effects on the SAC can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects, having regard to the nature of the development, the proposed mitigation measures and the use of planning conditions to secure implementation of the proposed mitigation measures.

In terms of the Malin Head SPA, following an examination, analysis and evaluation of the NIS, NIS Addendum, all associated material submitted with the application and appeal, and taking into account observations on nature conservation and the Conservation Objectives and Qualifying Interests of the SPA, I am not satisfied that it can be determined beyond reasonable scientific doubt that the proposed development, either individually or in combination with other plans or projects, would not have an adverse impact on Corncrake, which is a species of conservation interest for the SPA. As such, I am not satisfied that the development would not be likely to have an adverse effect on the integrity of the Malin Head SPA in view of the site's Conservation Objectives.