



An
Bord
Pleanála

Inspector's Report

ABP-321460-24

Development

Construction of 28 apartments with all associated site works. A Natura Impact Statement was submitted with further information. (Amended to 30 units in decision description).

Location

Paddy Harte Road & Pearse Road,
Letterkenny, Co. Donegal

Planning Authority

Donegal County Council

Planning Authority Reg. Ref.

2351816

Applicant(s)

Glenturas Construction Limited.

Type of Application

Permission.

Planning Authority Decision

Grant, subject to conditions.

Type of Appeal

Third Party

Appellant(s)

Gary Cooney

Stephen Harris

John Larkin

Giles McGee

Paddy and Grainne McGranaghan.

Observer

Eamonn O'Duibhgeannain

Date of Site Inspection

4th March 2025

Inspector

Terence McLellan

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Site Location and Description	

- 1.1. The appeal site constitutes approximately 0.287 hectares of brownfield land within Letterkenny town centre. The site occupies a prominent corner block on the junction of Pearse Road, which forms the north west boundary, and Paddy Harte Road which forms the north east boundary. The southern boundary of the site is marked by the River Swilly and the banking leading down to the river's edge. Access to the site is from Pearse Road which forms part of the R250 regional road, with one lane of traffic in each direction and the westbound carriageway increasing to two lanes just slightly west of the site access.
- 1.2. The site is generally flat with the exception of the riverbank which reduces in level by approximately three metres. The surface of the site is generally compacted gravel with some ruined sections of walls and railings along the boundaries and colonising vegetation.
- 1.3. East of the site across Paddy Harte Road is a retail park with associated car parking and a McDonalds restaurant (incorporating a drive through). To the north on Pearse Road there are a series of predominantly single storey commercial premises. Further along the north side of Pearse Road to the east and west some building heights increase to three and four/four and half storeys. Immediately to the south east there is a car sales business and vacant plot currently in use as a car wash business, and to the immediate west there is a small strip of undeveloped land. The wider area to the south east is characterised by large scale commercial sheds and retail parks.

2.0 Proposed Development

- 2.1. Planning permission is sought for the redevelopment of the site to provide 28 apartments in a two core, five storey building with communal amenity space, 14 no. car parking spaces (inclusive of one accessible bay) and 28 no. cycle parking spaces. Vehicular access would be provided from Pearse Road and improvements are proposed for the pedestrian environment on the junction of Pearse Road and Paddy Harte Road comprising landscaping, improved footpaths and a segregated cycle lane. The schedule of accommodation provides for 8 no. one bedroom apartments and 20 no. two bedroom apartments, all with private amenity space. The documents state that the proposal is for a turnkey social housing development.

Further Information

2.2. The Applicant submitted Further Information at the request of the Planning Authority. This incorporated the following substantive amendments to the proposed development:

- Removal of four ground floor apartments and internal reconfiguration of the ground floor to provide additional bulk storage and increased cycle parking.
- Provision of a main entrance on the corner of Pearse Road and Paddy Harte Road.
- Increase in the height of the building to six storeys and overall provision of 30 apartments comprising 10 no. one bedroom and 20 no. two bedroom units.

2.2.1. Additional amendments were also made to the site entrance, and the amended proposal also includes the provision of crossing areas and landscaping at the traffic island to the north of the site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Notification of the Decision to Grant Permission was issued on the 21st November 2024 subject to 25 conditions as follows:

1. Plans and particulars.
2. Final details of access arrangements (signage, cycle lanes, lighting).
3. Material samples.
4. Infrastructure delivery.
5. Naming and numbering.
6. Restrictions on advertising.
7. Construction Management Plan.
8. Hours of construction.
9. Surface water drainage.
10. Temporary hoarding and riverbank planting.

11. Car park design, specifications and drainage.
12. Repair and reinstatement, including Bond/cash security.
13. Lighting.
14. Underground service cables.
15. Waste water.
16. Water supply.
17. Road Safety Audit.
18. Maintenance of common areas.
19. Provision of a management company.
20. Landscaping.
21. Development contributions.
22. Section 47 Agreement (acquisition restrictions).
23. Part V.
24. EV parking.
25. Payment of a bond.

3.2. Planning Authority Reports

3.2.1. The first Planner's Report was published on 24th January 2024 and contains the following points of note:

- The proposal complies with the broad thrust of national, regional and local policy, in particular the creation of much needed housing, greater compact growth, and higher density town centre living. The principle of social housing in Letterkenny is also acceptable and provided for in the Letterkenny Plan.
- Layout is largely dictated by site constraints from adjoining roads and the River Swilly. The principle of a corner building is supported.
- Concerns regarding surface level car parking on Pearse Road and a built frontage would be preferred with undercroft parking.

- The proposal will provide an active, articulated façade fronting onto Pearse Road and Paddy Harte Road.
- The Planning Authority is satisfied that the scheme will not preclude any future road infrastructure development but Further Information is required to ensure this in addition to the provision of traffic surveys, auto-tracking, and a Road Safety Audit in line with the comments from Road Design.
- Proposed car parking is acceptable in light of relevant Government guidance and the town centre location. An Outline Mobility Management Plan should be secured by Further Information.
- The quantum of cycle parking is supported but information on the scheme's ability to provide space to future proof active travel provision should be secured by Further Information.
- The scale and height are considered not just acceptable but necessary and may assist in encouraging other developments of urban scale in Letterkenny. Design is considered to be high quality.
- Density is 97.5dph and is acceptable in the context of the Compact Settlement Guidelines. Consideration has also been given to the context of the site which is constrained by the requirements to safeguard the road frontage for future active travel schemes and safeguard the rear of the site for a future greenway.
- Housing mix, dual aspect, apartment size and general housing quality standards are considered to be acceptable.
- The proposal allows for 260 sqm of communal open space which is 9.05% of the overall site and below the 10% minimum. However, this is acceptable having regard to the density of the development, the constrained nature of the site, and the need to allow for a possible future river walk. The quantity of open space proposed is therefore supported.
- Development would be subject to connection agreements with Irish Water. In terms of storm water, surface water drainage, and SUDS, full details have not been submitted. This should be secured by Further Information.

- The site is in Flood Zone B, residential at ground floor is not supported. Undercroft parking would be preferable but not at the expense of active frontage. This should be addressed alongside a Flood Risk Assessment by way of Further Information.
- The Planning Authority determined that full Appropriate Assessment of the proposed development is required in this instance, as it cannot be excluded on the basis of objective scientific information that the proposed development individually will have a significant effect on the aforementioned Natura 2000 site. A Natura Impact Statement should be secured by way of Further Information.

3.2.2. The first Planner's Report concluded that Further Information was required to address the following items:

1. Ground floor residential, exploration of undercroft parking, and an alternative design approach with a full built frontage along Pearse Road.
2. Provision of a Flood Risk Assessment.
3. Details of all storm /surface water collection, management and disposal.
4. Outline Mobility Management Plan.
5. Outline Fire Strategy.
6. Traffic Survey and Road Safety Audit.
7. Revisions including details of footpaths/cycle ways, raised table at Pearse Road, pedestrian linkages to the north through the existing traffic island, potential pedestrian linkages to Larkin's Lane, suitable landscaping (maintenance and visibility), auto-track analysis, public lighting, and cross sections through the site to show the extent of the embankment, height and how it relates to the proposed amenity area in relation to any future Riverwalk Project.
8. Provision of a Natura impact Statement.

3.2.3. Further Information was submitted on the 10th October 2024. In addition to supplementary reports and information as requested, the submission involved amendments that included the removal of the ground floor residential units, raising the

height of the building to six storeys, and increasing the number of apartments from 28 to 30, thereby compensating for the units lost at ground floor. This was considered to be Significant Further information and revised site notices, and newspaper notices were published. The Significant Further Information was considered in the second Planner's Report which was published on the 20th November 2024 and contains the following points of note:

3.2.4. Item 1

- An acceptable design and an adequate degree of frontage is provided. Circulation and activity are encouraged at the street edge while addressing flood risk by locating vulnerable residential uses above ground level.
- The inclusion of an additional storey to compensate for the loss of ground-floor apartments is welcomed and a building of this scale is considered appropriate in the context of the evolution of the built form of Pearse Road and its town centre context.
- It is noted that the Department of Housing, Local Government, and Heritage discouraged undercroft parking on the site.

3.2.5. Item 2

- The Flood Risk Assessment effectively mitigates identified risks and ensures compliance with relevant flood management guidelines. Conditions recommended.

3.2.6. Item 3

- The submitted stormwater calculations are robust and compliant with policy requirements and compliance with greenfield runoff rates and adequate storage.

3.2.7. Item 4

- The Mobility Management Plan is compliant with sustainable transport policies and effectively reduces reliance on cars. Ongoing monitoring is recommended.

3.2.8. Item 5

- The Fire Safety Strategy is considered compliant and robust. While the Chief Fire Officer has not responded, a Fire Safety Certificate will be required outwith the planning process.

3.2.9. Item 6

- The development complies with DMURS, prioritising pedestrian and cyclist safety, and incorporates forward-thinking infrastructure such as cycle lane safeguarding and tactile paving. Cross-sections and landscaping plans align with the riverwalk project while ensuring visibility and low maintenance. Public lighting and auto-track analysis meet technical requirements.

3.2.10. Item 7

- The planning authority is satisfied with the applicant's revisions, including DMURS-compliant infrastructure, traffic management measures, and stormwater control. The public lighting proposal meets design requirements, and the Applicant's liaison with Road Design ensures future compatibility with cycle infrastructure. The Planning Authority consider that remaining issues can be conditioned, and objections raised by the Area Roads Engineer regarding exit location are not upheld based on compliance with DMURS, site zoning, and settlement context.

3.2.11. Item 8

- The Planning Authority deems the NIS thorough and compliant with regulatory requirements. The mitigation measures outlined address all identified risks to European Sites, ensuring no adverse impacts on the Lough Swilly SAC and SPA during construction or operation.

3.2.12. The second Planner's Report refers to archaeological information having been submitted but the Board should note no such information was submitted by the Applicant or requested by the Planning Authority at Further Information Stage. There are no known archaeological sites on or adjacent to the site and I am satisfied that this is an error in the report. The second Planner's Report concludes that permission should be granted subject to conditions.

Other Technical Reports

3.2.13. **Building Control (05.01.2024 and 20.11.2024):** No objection subject to conditions.

3.2.14. **Regeneration (05.01.2024 and 05.11.2024):** The submitted visual illustrations reassure the Regeneration Team that the applicant has had due regard for the river corridor concept. The Regeneration Team notes the revised proposal and welcomes the development's commitment to protecting a 7m wide corridor to facilitate the future delivery of the Riverside Walkway in accordance with the Letterkenny 2040 Regeneration Strategy and the Letterkenny Plan and Local Transport Plan 2023-2029 which both identify the River Swilly Greenway. Recommend conditioning of high quality materials and planting schemes to be delivered prior to occupation. A condition should also be considered requiring the delivery of temporary hoarding to the rear of the site with boundary treatment and appropriate riverside back planting.

3.2.15. **Roads Design (21.12.2023 and 15.10.2024):** The Roads Design Team did not raise any specific objection to the proposal other than considering car parking to be insufficient and requiring the minimum required in the CDP. The remainder of the Roads Design response related to requests for Further Information as follows:

- Details of DMURS compliant footpaths/cycleways.
- Provision of raised table access.
- Incorporation of pedestrian linkages.
- Safeguard and future proof cycle lanes on Pearse Road.
- Cross sections showing the embankment and how it relates to amenity space and riverside walkway.
- Provision of a Flood Risk Assessment, NIS, Road Safety Audit (investigating left exit only), auto-track analysis, and details of public lighting.
- Ensure landscaping would be low maintenance and not obstruct visibility.
- Provision of drainage design and discharge rates to greenfield run-off

3.2.16. Following the submission of Further Information, the Roads Design team made the following substantive comments:

- Appropriate signage to be installed in advance of the raised table.
- Safeguard and futureproof the proposed integration of cycle lanes on Pearse Road.

- Completion of a Stage 3 Road Safety Audit.
- Lighting columns not to impact on footpath width.

Prescribed Bodies

3.2.17. **Irish Water** – No response.

3.3. Third Party Observations

3.3.1. A total of nine Third Party observations were made on the planning application. The issues raised are similar to the grounds of appeal which are set out in Section 6 below. The principal issues raised in the observations include:

- Existing road infrastructure and wider road network is insufficient and does not have capacity to accommodate the development.
- Development will preclude the delivery of future road infrastructure
- Concerns about proposed vegetation on the traffic island and its impact on Road Safety.
- Permeability of the existing “temporary” traffic calming measures on Pearse Road and its impact on businesses on Pearse Road.
- Insufficient car parking, concerns regarding flow of traffic in the town centre, impacts on local businesses.
- Concerns regarding access, including emergency access.
- Principle of residential use on the site and the housing tenure.

3.3.2. Following the submission of Significant Further Information, a further nine observations were made. In addition to reiterating the issues previously raised, the observations also raised concerns as follows:

- Increase in pedestrians using the island to cross the road and potential traffic impacts.
- Application is lacking in sufficient detail and assessment regarding the impact of the development on local traffic.

- The proposal is substantially different to the original proposal, and third parties have been disenfranchised.
- Development should retain space to allow for a future roundabout and suggests road configuration to help with the development and overall traffic flow.

4.0 Planning History

Subject Site

- 4.1. **Planning Authority Reference 05/80029** – Planning permission was granted by Donegal County Council in September 2006 for development consisting of a basement level car park providing car spaces for 65 cars, 3 no. retail units at ground floor level, a ground floor car park providing car park spaces for 9 no. cars, 3 no. offices at first floor level, 3 no. office units at second level, 3 no. office at third floor level and connection to the existing public sewer with associated site works.
- 4.2. **Planning Authority Reference 07/80204** – Permission was refused by Donegal County Council in August 2008 for development on a previously approved site under planning permission ref. no. I05/80029 consisting of 1). basement level car park providing 38 no. car parking spaces 2). 1 no. retail unit at ground floor level 3). 3 no. office units at 1st floor level 4). 3 no. office units at 2nd floor level 5). 3 no. office units at 3rd floor level (all office units have ancillary facilities) 6). a right hand turning lane off Pearse road 7). connection to existing public sewer with associated site works. Permission was refused for the following reason:

1. The details and drawings lodged with the application fail to make provision for adequate on-site car parking to accommodate the proposed development in accordance with the minimum Development Guidelines and Standards of the Letterkenny and Environs Development Plan, 2003 - 2009 (as varied), Volume 2. It is considered therefore that to permit the development would result in substandard development which is deficient in car parking provision and would endanger public safety by reason of traffic hazard and obstruction of road users or otherwise as a result of overspill car parking onto the public road. Accordingly, to permit the development would be contrary to the proper planning and sustainable development of the area.

Adjoining Sites

4.2.1. None of relevance.

5.0 Policy Context

5.1. County Donegal Development Plan 2024-2030

5.1.1. Chapter 2 comprises the Core Strategy, which sets out a series of objectives for growth. Of relevance are:

- **CS-O-1:** To support the growth of Letterkenny and its metropolitan area as the key driver of population and economic growth in the County.
- **CS-O-4:** To seek alignment of investment in infrastructure with the priorities for growth established in the settlement structure unless, in specific instances, environmental constraints prevent such investment, environmental issues demand investment elsewhere or innovative opportunities arise for strategic investment of regional significance at alternative locations.
- **CS-P-2:** To seek alignment of investment in infrastructure with the priorities for growth established in the settlement structure unless, in specific instances, environmental constraints prevent such investment, environmental issues demand investment elsewhere or innovative opportunities arise for strategic investment of regional significance at alternative locations.

5.1.2. Chapter 6 includes the County's housing policies. Policies of relevance include:

- **UB-P-5:** It is the policy of the Council to guide urban residential development in a sequential manner, outwards from the core area in order to maximise the utility of existing and future infrastructure provision, promote the achievement of sustainability, avoid 'leap- frogging' to more remote areas and to make better use of underutilised land.
- **UB-P-8:** It is a policy of the Council to determine appropriate residential densities for housing sites having regard to the provisions of all relevant departmental guidelines, the provisions of Circular Letter: NRUP 02/2021, the specific nature of the development proposed and the site location and context.

- **UB-P-12:** Multiple residential developments shall, in general:
 - a. On greenfield sites, include a minimum of 15% of the overall site area reserved as public amenity area.
 - b. In other cases, such as large infill sites or brown field sites include a minimum of 10% of the overall site area reserved as public amenity area; or
 - c. On lands characterised by a large private or institutional building/s set in substantial open lands, include a minimum of 20% of the overall site area reserved as public amenity area.

5.1.3. Chapter 8 relates to Infrastructure. The relevant policies include:

- **T-P-16:** Parking
- **F-P-1:** To only permit development where flood or surface water management issues can be successfully addressed and/or where there is no unacceptable residual flood risk for the development, its occupants and/or private property or public infrastructure elsewhere within the catchment.
- **F-P-4:** Not to permit developments which would hinder the maintenance of river or drainage channels.

5.1.4. Chapter 16 includes technical standards that must be complied with. Of relevance is Table 16.8 – Car parking Standards

5.2. **The Letterkenny Plan and Transport Plan 2023-2029**

5.2.1. The Letterkenny Plan came into effect on the 3rd January 2024. Part A comprises 'Land Use Planning Policies' while Part B outlines the 'Local Transport Plan'.

5.2.2. The site has two zoning objectives. The strip of land along the edge of the River Swilly is zoned 'Open Space', the stated objective of which is 'to conserve and enhance land for formal and informal open space and amenity purposes, and to make provision for new recreation, leisure and community facilities'.

5.2.3. The remainder of the site and the land on which development would take place is zoned 'Town Centre', with the stated objective 'to sustain and strengthen the core of Letterkenny as a regional centre of residential, commercial, retail, cultural and community life and to support active travel and public transport provision'. Residential is open to consideration within the town centre zoning.

5.2.4. Chapter 3 sets out the strategic context and growth ambitions for Letterkenny seeking the regeneration and reimagining of the town centre in line with the Letterkenny Regeneration Strategy 2040, the delivery of more homes, increased population, and more jobs.

5.2.5. Chapter 5 outlines the 'Development Strategy and Consolidation' for a 'Compact Letterkenny' based around the key spatial components of the central business district and sets out areas for targeted compact growth, which includes the town centre.

5.2.6. Chapter 9 comprises the town centre strategy. It addresses infrastructural deficiency affecting the town centre. Section 9.3.1 highlights urban design issues including the lack of urban connections, dominance of vehicles, minimal pedestrian crossing points on Pearse Road and the appropriateness of high density development in the Pearse Road area. Relevant policies include:

- **Policy LK-TC-P-02:** It is a policy of the Council to require that development proposals within the town centre are broadly consistent with, and would not prejudice the delivery of, the Letterkenny 2040 Regeneration Strategy.
- **Policy LK-TC-P-04:** It is a policy of the Council to support the provision of additional appropriately located and designed residential accommodation in the town centre.
- **Policy LK-TC-P-08:** It is a policy of the Council to require that development proposals within the town centre area conform to the following design criteria (list not exhaustive):
 - Proposals shall have regard to the Letterkenny Design Guide and the Linkages & Public Space Action Plan, prepared as part of the Letterkenny 2040 Regeneration Strategy.
 - Proposals shall provide for distinctive buildings of high architectural quality, which contribute to a distinct sense of place and a quality public realm
 - Building lines shall be such that a sense of enclosure is provided to the streetscape (i.e. following established building lines where appropriate or moving the building line closer to the road edge if deemed necessary in order to better define the streetscape)

- Proposals shall promote visual interest through modulation and detailing of architectural elements (e.g. variation in building elevations, variations in roof form, cornices, windows, eaves, frontages and entrances and minor variations in setback).
- Proposals shall provide for minimum three storey development along Pearse Road and two storeys elsewhere in the town centre.
- **Policy LK-TC-P-11:** It is a policy of the Council that within Flood Zone B in the town centre, proposed uses that are considered to be highly vulnerable to flooding will only be considered where –
 - a. Such uses are to be located at first floor level, above predicted flood levels.
 - b. Appropriate provision has been made for access and egress to and from the site in the event of a flood.
 - c. The proposal has been subject to detailed risk analysis as a part of a site-specific flood risk assessment.

5.2.7. Chapter 10 'Housing' identifies a shortfall of c. 1000 housing completions during the 2016-2022 period and outlines the need for 2,300 residential units over the Plan period. Relevant provisions can be summarised as follows:

- **Objective LK-H-O-1:** To ensure that an appropriate quantum and mix of housing types, tenures, densities and sizes is provided in suitable locations.
- **Objective LK-H-O-2:** To secure the provision of all necessary infrastructure commensurate with the needs of new residential development.
- **Policy LK-H-P-2:** To determine appropriate residential densities having regard to all relevant departmental guidelines, the provisions of Circular Letter: NRUP 02/2021, the specific nature of the development proposed and the site location and context.
- **Policy LK-H-P-8:** It is a policy of the Council to require proposals for residential development to prioritise and facilitate walking, cycling, and public transport and to include provision for links and connections to existing facilities and public transport nodes in the wider neighbourhood.

- Section 10.3 states that Donegal County Council will continue to pursue a number of delivery streams to increase social housing provision in the Letterkenny area, in order to ensure that all sectors of society can have access to a home. The primary means of delivering social housing in Letterkenny to meet this objective include
 - Turnkey developments,
 - Site acquisition,
 - Part V,
 - Council built developments,
 - Buy and Renew Scheme, and
 - Schemes delivered by Approved Housing Bodies.

5.2.8. Chapter 21 relates to the Town Centre Transport Strategy with the aim that Letterkenny town centre will be transformed from a car-dominated and disconnected centre to one that presents a more attractive and safer environment for all users, inclusive of those who wish to live, work, do business in, or visit the town.

5.3. **Letterkenny 2040 Regeneration Strategy**

5.4. The Letterkenny 2040 Regeneration Strategy was published on 5th December 2022. It is noted that this is a non-statutory framework plan that sets out the regeneration ambitions for the town centre of Letterkenny to 2040 and beyond.

5.5. Project A1 of the strategy relates to Pearse Road and seeks to re-imagine Pearse Road as a boulevard with a shift in focus from vehicles to people. The strategy also suggests that the existing traffic island adjacent the subject site is used to facilitate pedestrian crossing with landscape incorporated.

5.6. **National Policy**

Project Ireland 2040 – The National Planning Framework (NPF)

5.6.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. The NPF promotes 'compact growth', focussing on more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 2 (b) – The regional role of Letterkenny in the North-West and the Letterkenny-Derry cross-border networks will be identified and supported in the relevant Regional Spatial and Economic Strategy.
- NPO 3 (c) aims to deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 5 - Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
- NPO 6 aims to regenerate towns and villages of all types and scale as environmental assets.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site based regeneration and increased building heights.

Housing for All - a New Housing Plan for Ireland (September 2021)

5.6.2. Housing for All is the government's housing plan to 2030. It aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

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

- Offering a high quality of life.

5.7. Regional Policy

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

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

- RPO 3.7.20 - To grow Letterkenny to a Regional Centre to a minimum of 27,300 residents by 2040.
- RPO 3.7.22 - To ensure that at least 40% of all newly developed lands are within the existing built-up urban area of Letterkenny.
- RPO 3.7.23 - To provide an additional 3,000 - 4,000 residential units.
- RPO 3.7.27 – To prepare a building heights study and minimum density rates of 50 units per hectare in the town centre area.
- RPO 3.7.29 – To consolidate existing neighbourhoods, including the town centre.

Section 28 ministerial Guidelines

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

- Urban Development and Building Heights - Guidelines for Planning Authorities (2018). The guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2023). These guidelines seek to achieve both high quality apartment development and a significantly increased overall level of apartment output. Standards are provided for unit mix, apartment sizes, dual aspect ratio, floor to ceiling heights, apartment design and private/communal amenity space. The Guidelines set out the type of locations that are suitable for increased density and apartment development.
- Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024). The Guidelines support the application of densities that respond to settlement size and to different place contexts within each settlement, recognising in particular the differences between cities, large and medium-sized towns and smaller towns and villages. They will also allow greater flexibility in residential design standards and cover issues such as open space, car and cycle parking, and separation distances.
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023).
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

5.8. Natural Heritage Designations

- 5.8.1. There are no European Sites within the boundary of the appeal site nor are there any European Sites directly abutting the appeal site or within its immediate context. The nearest European sites are the Lough Swilly SAC (Site Code) approximately 1.5km to the east and the Lough Swilly SPA (Site Code) approximately 2.5km to the east.

5.9. EIA Screening

- 5.9.1. See completed Form 2 on file (Appendix 4). Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Five Third Party appeals have been submitted against the decision of Donegal County Council to grant planning permission for the proposed development. The Appellant's are as follows:

- John G. Larkin on behalf of Larkin's Commercial Business Units, Pearse Road, Letterkenny.
- Gary Cooney, business owner, Pearse Road and Pearse Road Retail Park, Letterkenny.
- Giles McGee, Charlie's Café, Pearse Road, Letterkenny.
- Paddy and Grainne McGranaghan, Mill View bed and Breakfast, Leck Road, Letterkenny.
- Stephen Harris, Tyre Centre, Pearse Road, Letterkenny

- 6.1.2. The grounds of appeal can be summarised as follows:

6.1.3. Procedural Matters

- The development was changed from five storeys and 28 apartments to six storeys and 30 apartments, this is a significant change to what was originally applied for and requires withdrawal of the existing application and submission of a new application.
- There was no mention in the original planning application of converting the traffic island into a crossing area, it has been included since Further Information was submitted however it is still not mentioned in the description.

- The change is misleading to the public despite the revised notices and newspaper advert and does not give sufficient time to interested parties to comment on the proposal.

6.1.4. Transport Infrastructure

- Existing transport infrastructure will not be capable of supporting the development. The existing road is too narrow, there are not enough lanes and no turning lanes available. This impacts on businesses.
- The proper infrastructure has to be in place. An additional carriageway or even two should be considered to allow free flow of traffic, pedestrians and cyclists.
- The existing island barrier at Pearse Road/Paddy Harte Road slows vehicles and prevents them from having free movement in both directions. Making this a pedestrian crossing will only further slow traffic and reduce footfall.
- The island was a temporary addition in 2009 and there has been no word on the permanent layout.
- Donegal County Council have neglected the commercial and retail traders of this area and permitting the proposed development would create difficulties to provide new infrastructure/road layout.
- The existing road layout is insufficient in size, width, capacity and infrastructure layout and will not be able to provide safe access and egress to/from the development.
- The existing roadway has two lanes in one direction and one lane in the other, there is consistent traffic congestion, traffic cannot drive safely along the road and the road is not fit for purpose for current traffic levels.

6.1.5. Traffic Survey

- There is no evidence of a traffic survey having been undertaken, despite being requested at Further Information stage. Pearse Road is extremely busy, at all times every day and it is unacceptable that such a large development using existing infrastructure can be considered with no traffic survey.
- The absence of a traffic survey will not give a full and accurate indication of the amount of traffic that use the existing roadway and traffic, and pedestrian safety

is of the utmost priority of all proposed developments. Such an assessment would be a minimal requirement to ascertain the amount of traffic involved and the overall safety of all users within this area.

6.1.6. Traffic

- There is a mix of commercial and residential development along Pearse Road, traffic has progressively got worse, and the road networks has not been extended or improved.
- Traffic issues have had impacts on commercial businesses and business owners due to the difficulty of access and egress to the road network, parking, and being unable to freely travel along the route.
- A new crossing at the traffic island will increase congestion and reduce safety.

6.1.7. Access

- Access to the site is only available in one direction, meaning drivers have to detour, leading to increased emissions.
- A further turning area off Pearse Road would require crossing two lanes of traffic which would increase wait times, lead to increased traffic congestion, and have potential safety issues.

6.1.8. Parking

- Parking is insufficient and will lead to overspill/ad-hoc parking with further impacts for commercial uses and traffic safety.

6.1.9. Quantum of Development

- The development has been changed into an oversized development.

6.1.10. Flooding

- Query that the site may be on a flood plain and may be subject to flooding due to changing tides and climate change. No details have been submitted on how flooding would be prevented or mitigation against flooding.

6.2. Applicant Response

6.2.1. A First Party response to the grounds of appeal was submitted on the 22nd January 2025. The response

- The Further Information response included the required revised newspaper and site notices which initiated a further five week period to submit observations. The public were provided ample opportunity to engage with the original and amended submissions.
- The development is located on a central brownfield site with good access to services and shops. The development would promote sustainable, compact urban growth and regeneration and would be in accordance with the National Planning Framework, the RSES, and Guidelines - Sustainable Residential Development in Urban Areas
- Density is acceptable based on location and the scheme complies with Guidelines - Sustainable Urban Housing: Design Standards for New Apartments in terms of mix, internal space, dual aspect, floor to ceiling height, stair/lift core ratios, storage spaces, amenity spaces, and car parking.
- The County development plan establishes a minimum requirement of 7,878 new units over the plan period and will require a significant increase in housing output. There is a housing target of 2,559 units for Letterkenny, representing 30% of the County's housing target.
- Main Street, Lower Main Street and Pearse Road are identified in the Letterkenny 2040 Regeneration Strategy as being dominated by vehicles, creating physical barriers to pedestrians and cyclists attempting to move between old and new sections of the town centre.
- The Regeneration Strategy seeks to facilitate pedestrian crossing on the traffic island with landscaping incorporated.
- The Regeneration Strategy and Design Guide have been at the centre of the design of the proposal. The building will integrate within the streetscape, allow significant public realm improvements, provide street furniture and widening of footpaths, enhancements to cycle paths and overall improves the aesthetic of

the streetscape making it a comfortable space that people want to walk, cycle and spend time in.

- The development incorporates native tree species to improve the quality of the environment, supporting nature, and providing a consistent scale and structure along Pearse Road and Paddy Harte Road.
- The building acts as a gateway between the old town and new town, providing a clear point of arrival and a way finding feature and improves linkages across the traffic island.
- A narrow linear strip along the River Swilly has been zoned as open space in order to facilitate a greenway along the banks of the river. Detailed discussions have been had with the Office of Public Works and their requirements have been designed into the proposal and the proposal can enable the greenway.
- The Letterkenny Plan notes that the town centre is already very well served by car parking and that there is an oversupply, seeking limited new parking.
- Residential use is accommodated at first floor and above, safely above predicted flood levels.
- The Flood Risk Assessment confirms that the OPW flood maps and reports do not record any flooding or reoccurring flooding at the site. Only a very limited area of the site at the southern edge falls within the 1 in 10 year return fluvial floodplain, with the rest of the site in Flood Zone B.
- Flooding from watercourses, overland flow, and surcharged storm water systems was considered and the review concluded that the risk of flooding from these sources was minimal.
- A justification test has been undertaken, and it is demonstrated that the site being restricted to greenfield run off would result in no net increase in the discharge to neighbouring watercourses.
- The Letterkenny 2040 Regeneration Strategy and the Letterkenny Local Area Plan and local Transport Strategy 2023-2029 were informed by traffic modelling undertaken in 2019, further supplemented by a detailed review of traffic data from TII counters capturing trends from 2019 and 2022.

- The Appellant's fail to recognise that the policy framework has identified a new vision for Letterkenny that deprioritises vehicles in favour of compact growth and walking/cycling.
- Access to the site and island crossing has been designed to meet DMURS standards.
- Key enhancements include raised tables, improved pedestrian linkages, integration of cycle lanes and a future pedestrian link via Larkin's Lane.
- Traffic movement in Letterkenny is well understood based on evidence gathered during the plan making process and the proposal has been developed in alignment with policy frameworks, demonstrating safety for pedestrians, cyclists and vehicles.

6.3. Planning Authority Response

6.3.1. The Planning Authority issued a response to the grounds of appeal on 23rd January 2025 as follows:

6.3.2. Traffic Impact, Road Network Capacity, and Parking Provision

- A Road Safety Audit confirms that access arrangements comply with DMURS, and the omission of a right-turn lane was assessed and found to be appropriate to improve overall road safety. The revised site access arrangements prioritise safety while maintaining efficient traffic movement.
- Lower parking is justified due to the town-centre location and the site's proximity to public transport and active travel networks.
- The integration of future active travel corridors and cycle lane safeguarding along Pearse Road has also been factored into the decision.

6.3.3. Flood Risk and Surface Water Management

- No residential units will be located at ground floor level, in compliance with Policy LK-TC-P11 of the Letterkenny Plan.
- Flood mitigation measures have been incorporated to ensure that flood risks are minimised.

- The Planning Authority has reviewed the Flood Risk Assessment and is satisfied that the development will not increase flood risk elsewhere.
- Surface water discharge will be controlled and maintained within greenfield runoff rates.

6.3.4. Residential Amenity and Overdevelopment

- The design and scale of the development aligns with the Letterkenny Plan and Local Transport Plan 2023-2029, which encourages higher-density development in town-centre locations.
- Height is considered appropriate given the site's location and the surrounding built environment, incorporating stepped building forms, landscaping, and orientation strategies to minimise overshadowing and privacy impact.
- In terms of noise, given the town-centre location, the proposed residential use is compatible with surrounding commercial and mixed-use developments.
- Conditions to regulate construction activity and ensure that noise levels remain within acceptable thresholds are imposed.

6.3.5. Impact on Businesses

- The Planning Authority does not accept that the development will have a negative impact on existing businesses.
- The development supports town-centre regeneration by increasing residential footfall, which will contribute to the economic vitality of the area.
- The pedestrian and cyclist infrastructure enhancements incorporated into the development will improve accessibility and public safety, benefiting both businesses and residents.
- There is no substantive evidence to suggest that traffic associated with the development will disrupt commercial operations.
- Access arrangements have been designed to ensure safe and efficient movement, and no objections have been raised by the Roads Department in this regard.

6.3.6. Future infrastructure and Road Network Planning

- The development has been designed in consultation with the Road Design and Active Travel Teams, ensuring that it does not conflict with future road network improvements. There are no grounds to suggest that this proposal will prevent the delivery of necessary infrastructure projects in the future.

Procedural Issues

- The Planning Authority acknowledges that the Further Information response constituted Significant Further Information. The Applicant was required to erect new site notices and publish a revised newspaper notice and the Planning Authority is satisfied that these measures ensured that third parties were adequately informed and given the opportunity to make further submissions. The statutory consultation procedures have been fully complied with, and all parties were afforded the appropriate level of participation in the decision-making process.

6.3.7. The Board should note that the response from the Planning Authority makes reference to a Traffic and Transport Assessment (TTA). No TTA is on file and the Planning Authority have confirmed that no TTA was received.

6.4. Observations

6.4.1. An observation has been received from Eamonn Augustine O'Duibhgeannain of 43 Springfield Court, Celbridge, Co Kildare. The observation raises the following points.

- There is no objective need for this development, it would be out of place within the surrounding environment and there is not the infrastructure or amenities to cope with it.
- No thought has been given to wildlife or the aesthetic character of the area.
- The area is a rural one, the development will cause traffic congestion and have public transport requirements.
- Professionals must be engaged to ensure the concrete and cement being used is of a high standard as well as there being adequate fire escapes.
- Demolition and construction will create disturbance.

- It is possible the project will be abandoned unfinished given fragile world affairs.

6.5. Further Responses

6.5.1. 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:

- Procedural Matters
- Quantum of Development
- Flooding
- Transport
- Other Matters

7.2. Procedural Matters

7.2.1. The grounds of appeal raise concerns regarding amendments made to the proposal at Further Information stage, notably that the scheme amendments were significant and would warrant a new application, and that the changes are misleading to the public and did not give sufficient time to interested parties to comment on the proposal. It is further stated that there is no mention in either the original planning application or amended scheme regarding the conversion of the traffic island into a crossing.

7.2.2. I note that the Planning Authority rightly considered the Further Information submission to be significant and, on that basis, updated site notices and newspaper notices were published. The updated notices are, in my opinion, clear and unambiguous as to the proposed scheme changes, referencing both the increase in height and number of apartments. The revised notices provided a further five week period for submissions

and observations and on that basis, I am satisfied that no parties have been discommoded from participating in the process.

- 7.2.3. In terms of the proposal for the traffic island not being referenced on the notices, I do not consider that the development description has to be so detailed and prescriptive that it lists every discrete element of a development proposal. In this regard, I note that the development description utilised in the public notices and the information contained within the plans/material accompanying the application were considered to be clear, unambiguous and acceptable by the Planning Authority.
- 7.2.4. Section 3.4 of the Development Management Guidelines 2007 sets out guidance regarding the public notices. It is stated: “The purpose of the notices, that is, the newspaper notice (Article 18 of the Planning Regulations) and the site notice (Article 19), is to inform the public of the proposed development and alert them as to its nature and extent.....In recent years the amount of detail in the public notice has increased continuously to the extent that such notices frequently include every detail of the proposed development, rather than comprising a brief description of the proposed development.....The public notice should therefore be drafted so as to give a brief indication as to the nature and extent of the proposed development and is not required to go into excessive detail.”
- 7.2.5. Having regard to this guidance, I am satisfied that the nature and content of the site and newspaper notice submitted with the application and at Further Information Stage was sufficient. I am satisfied that third party rights were not prejudiced with the regard to the detail and content of the public notices.

7.3. Quantum of Development

- 7.3.1. It is mentioned in one of the appeals that the scheme amendments would result in an oversized development. No further elaboration is provided. It is therefore my view that an assessment should be made of density and building height.

Density

- 7.3.2. The Letterkenny Plan notes that the Pearse Road area is a central area in the context of the spatial layout of the overall urban core. Such central areas would normally be characterized by high density development patterns. However, the Pearse Road area, and similarly parts of the Port Road area, are dominated by low-intensity uses and low

value buildings in terms of construction; notably sheds and showrooms with open storage areas and significant areas of car parking. Given the centrality and profile of this location, higher density developments would be more appropriate in terms of urban design and sustainable development.

- 7.3.3. Regional Policy Objective 3.7.27 of the RSES supports the preparation of a building heights study to guide the future development of the regional centre, targeting minimum density rates of 50 units per hectare in the town centre.
- 7.3.4. The NPF promotes the principle of 'compact growth' at appropriate locations, facilitated through well-designed, higher-density development. NPOs 13, 33 and 35 of the NPF, which prioritise the provision of new homes at increased densities through a range of measures including, amongst others, increased building heights and promoting more compact and sustainable urban development within the existing urban envelope. The NPF recognises that a significant and sustained increase in housing output and apartment type development is necessary.
- 7.3.5. The Building Heights Guidelines (2018), the New Apartments Guidelines (2023), and the Compact Settlements Guidelines (2024), all provide further guidance in relation to appropriate densities and are supportive of increased densities at appropriate locations in order to ensure the efficient use of zoned and serviced land. All national planning policy indicates that increased densities and a more compact urban form is required within urban areas, subject to high qualitative standards being achieved in relation to design and layout.
- 7.3.6. The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated but actively sought out and brought forward by our planning processes, and in particular by Local Authorities and An Bord Pleanála. The Guidelines caution that due regard must be given to the locational context, to the availability of public transport services and to the availability of other associated infrastructure required to underpin sustainable residential communities.
- 7.3.7. The New Apartment Guidelines (2023) note that increased housing supply must include a dramatic increase in the provision of apartment development to support population growth, a shift towards smaller average household sizes, an ageing and more diverse population with greater labour mobility, and a higher proportion of

households in the rented sector. The Guidelines address in detail, suitable locations for increased densities by defining the types of location in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations. Under the Apartment Guidelines, the site would be considered an intermediate urban location due to its access to public transport.

7.3.8. The Compact Settlements Guidelines echo the Government objectives of promoting increased residential densities in appropriate locations. The Guidelines refine the assessment of location and set recommended density ranges. Under the guidelines, Letterkenny would be considered a Metropolitan Town in which the centre and urban neighbourhoods category includes: (i) the town centre and immediately surrounding neighbourhoods, (ii) strategic and sustainable development locations, and (iii) lands around existing or planned high capacity public transport nodes or interchanges (defined in Table 3.8). The Guidelines state that residential densities in the range 50dph to 150dph (net) shall generally be applied in the centres and in urban neighbourhoods of Metropolitan Towns.

7.3.9. The aim of national policy and guidance is clearly for an uplift in density in appropriate locations. The site is located within Letterkenny town centre, in close proximity to shops, services and public transport where a density range of between 50dph and 150dph is warranted. The scheme would have a density of 104dph which is in line with the guidelines and aligns with the Letterkenny Plan, which encourages higher-density development in town-centre locations. I have also had regard to appendix B of the Apartment Guidelines, considering the southern part of the site that cannot be developed due to topographical issues such as the steep river bank and the need to reserve a seven metre strip for a future greenway and OPW access. When discounting this land from the site area, the proposed density would be 119dph which would still be well within the guidelines. In my opinion, the proposed density is entirely acceptable for a site in the town centre and in such close proximity to amenities and services.

Building Height

7.3.10. The Letterkenny Plan does not currently benefit from a building height strategy, although I note that the preparation of a strategy is an action within the plan. The proposal is for a six-storey building, increased from five storeys at Further Information

stage in order to compensate for the loss of units at ground floor in addressing flood risk issues. The Planning Authority welcome the building height on this site and considers it both acceptable and necessary.

- 7.3.11. Letterkenny Plan policy LK-TC-P-O8 advocates for a minimum height of three storeys along Pearse Road. National policy is clear that increased building heights will be required in order to achieve compact growth and sustainable settlement patterns with additional height advocated in both the NPF and the RSES. The Building Height Guidelines (2018) advise that it is inappropriate for a development plan to include generic height limits across its functional area. It is considered that this approach undermines wider national policy objectives to provide more compact forms of urban development. It is also considered that such blanket limitations can hinder architectural innovation and urban design.
- 7.3.12. Building heights in the area range significantly. At the western end of Pearse Road is the Station House Hotel which is a four storey building and neighbouring buildings at this end of Pearse Road are three/three and a half storeys in height. Immediately opposite the site on Pearse Road and extending west are a series of commercial buildings that are generally single storey, although the garage opposite the site is equivalent of two storeys. Further along Pearse Road to the west building heights rise to three and a half/four storeys. On the opposite side of Paddy Harte Road is a single storey McDonalds restaurant and a large retail park development characterised by large commercial sheds that in my opinion are the equivalent of two storeys in height. The site immediately to the south east is in use as an open car sales lot with no buildings on site. Further retail park development lies beyond on Paddy Harte Road, generally the equivalent of two to three storeys.
- 7.3.13. The proposed development is for a six storey building spanning the corner site with frontages onto both Pearse Road and Paddy Harte Road. Given the predominant commercial nature and scale of the immediate surroundings which are generally characterised by single and two/three storey buildings, in addition to the undeveloped neighbouring plots, the proposed development would be a significant addition to the area, being markedly taller than the existing neighbouring buildings.
- 7.3.14. In my opinion, the layout of the proposed building appropriately addresses the urban block within which it sits, and I consider increased heights addressing the corner to

both appropriate and acceptable in townscape terms. On balance however, I consider the overall height at six storeys, which would be consistent across the entire block, to be excessive and that it would represent a very abrupt transition in scale from the immediate surroundings. The facades and materials would be of sufficient quality and I accept the compromises in ground floor activity in order to address flood risk issues, but I do not consider the modulation and articulation of the facades to be entirely successful in moderating the perception of bulk and massing of this six storey building, where building heights stepping down from the corner would be a more appropriate response. I also have concerns regarding the undue prominence of car parking which would be located on the Pearse Road frontage where the building could reasonably have been in order to achieve the same quantum of units but with a more appropriate dispersal of height, bulk, and massing.

- 7.3.15. Where the building meets the street, public realm should be improved. This is achieved by way of setbacks, tree planting, and street furniture which I consider to be acceptable. On balance however, I consider the total height at six storeys to be excessive having regard the immediate site context. In my view the consistent height across the entire building would serve to emphasise the bulk and massing as it wraps around the corner and would represent an incongruous feature in the immediate townscape and an abrupt transition in scale.

7.4. Flooding

- 7.4.1. The grounds of appeal state that the site may be on a flood plain and may be subject to flooding due to changing tides and climate change and concerns have been raised that no details have been submitted on how flooding would be prevented or mitigated.
- 7.4.2. The Planning Authority requested a Flood Risk Assessment at Further information Stage. The Flood Risk Assessment confirms that the site lies in Flood Zone A, B and C. The portion of the site in Flood Zone A lies along the southern boundary adjacent to the River Swilly and I note that no development is proposed in this area. The majority of the site is within Flood Zone B, with a small portion to the north and east edges located in Flood Zone C.
- 7.4.3. The FRA has reviewed historic flood data (OPW Flood Hazard Map) which does not indicate that the site or neighbouring land is prone to flooding although recurrent

flooding has been reported to the north of Main Street and to the south west, some distance from the site.

- 7.4.4. Flood Zone B is defined as having a moderate probability of flooding, between 0.1% probability or 1 in 1,000 years and 1% or 1 in 100 years for river flooding and between 0.1% or 1 in 1,000 years and 0.5% or 1 in 200 for coastal flooding.
- 7.4.5. Ireland's Catchment Flood Risk Assessment Management (CFRAM) maps provide evidence that current sea defences work in preventing flooding from the River Swilly to the site. The maps show modelled values for both Q100 Fluvial and Q200 Coastal upstream and downstream of the site with fluvial levels predicted to be 4.07m and the coastal level predicted to be 3.92m.
- 7.4.6. Site levels on the developable part of the site range from 4.155m OD on the southern boundary of the site adjacent to the headwall, to 4.91m OD at the western corner of the site, both above the predicted Q100 and Q200 levels. I also note that finished floor levels would be 4.95m OD and that all residential accommodation would be located at first floor and above, c.8.62m OD, which would be well above the modelled Q100 and Q200 levels.
- 7.4.7. The location of the residential units at first floor level would be compliant with Letterkenny Plan Policy LK-TC-P-11 which states that uses that are considered to be highly vulnerable to flooding will only be considered where they are to be located at first floor level, above predicted flood levels. The FRA considers the development to be acceptable when applying the justification test, which is required for highly vulnerable development within Flood Zone B and I generally concur with its findings. However, in regard to minimising the risk of flooding elsewhere, I note that, whilst surface water run-off attenuation to greenfield rates would be controlled through a flow device and attenuation through oversized pipes and manholes, a climate change allowance of only 10% has been applied which would be below the 20% generally applied on developments and adopted by the OPW.
- 7.4.8. In my opinion, the Board cannot be satisfied that a 10% allowance would be sufficient in order to accommodate increased rainfall events and intensities associated with climate change. No rationale has been provided by the Applicant for the application of a 10% allowance rather than the generally accepted 20% provision. It is not clear from the information before me that there would be adequate headroom in the proposed

drainage/attenuation strategy to capture this additional 10% uplift and depending on the increased capacity required, potential redesign of the proposed drainage/attenuation scheme may be required. In any event I am satisfied that this issue could be addressed by way of condition should the Board grant permission.

7.5. Transport

- 7.5.1. The core issues raised across all Third Party appeals relate to the potential transport impacts of the development including that existing infrastructure is deficient and that it won't be able to cope with the development, that the development would result in additional traffic congestion, that access arrangements are insufficient and would compromise safety, that parking would be insufficient and that no traffic survey was completed. It is a concern of the Appellant's that the transport impacts would be such that business would be affected.

Traffic

- 7.5.2. At the outset I would advise the Board that, contrary to the Planning Authority's response to the appeal, no Traffic and Transport Assessment was submitted. This is a key concern raised in the appeal, in addition to the view that the development would increase traffic congestion on an already congested road, and that the existing infrastructure would not cope with the development.
- 7.5.3. A Traffic and Transport Assessment was requested at Further Information stage however the Applicant opted not to provide one and the Planning Authority ultimately considered the development to be acceptable on transport grounds. Pearse Road is a heavily trafficked regional road. Should the Board be minded to grant permission, then this matter could be addressed by way of Further Information. However, in my view, traffic/trip generation is largely driven by the vehicular capacity of a development, in addition to servicing. The proposed development is for 30 units and incorporates 14 car parking spaces (inclusive of an accessible bay). Given the limited amount of car parking being proposed, the town centre location, and hybrid working patterns, I do not consider that the proposed development would result in such a substantial increase in traffic on Pearse Road that there would be significant additional congestion.
- 7.5.4. I note concerns raised in the appeal regarding the proposed works to the traffic island to facilitate crossings. From my site inspection it is clear that there is an under provision

of suitable pedestrian crossing points on both Pearse Road and Paddy Harte Road and it is clear that the existing traffic island is already used by pedestrians and cyclists as a crossing point. The proposed works would formalise this arrangement and make improvements to benefit pedestrian safety and would be fully in line with the Letterkenny 2040 Regeneration Strategy. I do not consider that these works would have any significant impact on the road network. The Board should note that the works to the traffic island are outside of the red line plan and as such cannot be conditioned as part of the current appeal. However, given the clear agreement of the Council to the traffic island proposals, I am satisfied that there would not be any significant impediment to its delivery, nor would the development preclude future infrastructure improvements in the area, such as improvements to Pearse Road as set out in the Letterkenny 2040 Regeneration Strategy.

Access

- 7.5.5. Concerns have been raised that there are potential safety issues regarding the site access. A Road Safety Audit was submitted at Further Information stage and I have considered this in my assessment. Vehicular access to the site would be from Pearse Road. This section of Pearse Road has one lane of traffic travelling eastbound on the northern carriageway whilst the westbound southern carriageway is single width as it turns from Paddy Harte Road and increases in width to two lanes as it moves westwards. The speed limit on Pearse Road is 50km/h. Currently, a solid white line prohibits right turns into the site from the northern eastbound carriageway and it is proposed that this be removed in order to allow right turning vehicles. The site access/egress would permit vehicles to turn left and right.
- 7.5.6. As noted previously, this section of Pearse Road increases from a single lane to two lanes. Whilst the formal road markings indicating two lanes do not appear until just after the site access, the increase in road width begins much earlier on approach to the site entrance. From my site inspection it is clear that manoeuvres to position vehicles into the inside lane (for vehicles turning left at the Pearse Road/Oldtown Road junction) happen much earlier than the formalised two lane road markings and that they generally occur on the approach to the site entrance due to the increased width of the carriageway. Cars turning right on exit from the site would therefore have to cross two lanes of traffic. However, there is clear visibility to the east and I do not consider that there would be any significant safety issues. The Board could consider

making the access left out only. I note that this was discounted in the Road Safety Audit on the basis that without a physical obstruction to prevent right turns, vehicles will turn right to exit the site. In my view, suitable signage and road markings at the site access making clear restrictions on right turns would be sufficient to address this issue and this could be conditioned by the Board.

Parking

- 7.5.7. The proposed development would provide 14 car parking spaces. The general thrust of national policy is to seek a reduction in car parking in appropriate areas. The Compact Settlement Guidelines state that the availability of car parking has a critical impact on travel choices for all journeys, including local trips. With ongoing investment in active travel and public transport across all urban areas and particularly in cities and larger towns, the number of locations with access to everyday needs and employment within a short walk or cycle or via a regular public transport connection is increasing all the time. In areas where car-parking levels are reduced studies show that people are more likely to walk, cycle, or choose public transport for daily travel.
- 7.5.8. The Guidelines state that the approach should take account of proximity to urban centres and sustainable transport options, in order to promote more sustainable travel choices. Car parking ratios should be reduced at all urban locations, and should be minimised, substantially reduced or wholly eliminated at locations that have good access to services and public transport. Given the town centre location and the immediate availability of shops, services, and public transport I am satisfied that the reduced level of car parking is entirely appropriate at this location and reasonably could be reduced further. Having regard to the foregoing, I do not consider that the development would result in overspill car parking.

7.6. Other Matters

- 7.6.1. Documents submitted with the application detail that the proposal is for social housing through the provision of a turnkey development. Other than this single statement, no further substantive information is provided on this issue either by the Applicant or in the Planner's Report. Whilst not raised in the appeal, the Board should note that the schedule of accommodation proposes all 20 no. two bedroom units as two bedroom/three person units, representing 60% of the total number of units.

- 7.6.2. Appendix 1 of the Guidelines sets out the minimum floor areas and standards for new apartments. It details a minimum floor area of 63sqm for a two bedroom/three person apartment with a footnote that this type of unit is permissible in limited circumstances.
- 7.6.3. Section 3.5 of the Guidelines states that Planning Authorities may consider a two-bedroom apartment to accommodate three persons, with a minimum floor area of 63 square metres, in accordance with the standards set out in Quality Housing for Sustainable Communities (and reiterated here in Appendix 1). Noting that this type of unit may be particularly suited to certain social housing schemes such as sheltered housing.
- 7.6.4. Section 3.7 further notes that it would not be desirable that, if more generally permissible, this type of two-bedroom unit would displace the current two-bedroom/four person apartment. Therefore, no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment. This is to allow for potential social housing provision further to Part V of the Planning and Development Act 2000 (as amended), or, if this type of unit is not required to meet social and affordable housing requirements, that it would allow for an acceptable level of variation in housing type.
- 7.6.5. Other than the single statement in the planning documents stating that the proposal is for social housing through the provision of a turnkey development, no further substantive information is provided. From the Planner's Report it is clear that housing mix was assessed on the basis of private and social, although I note that the report makes no reference to two bedroom/three person units. Furthermore, the Planning Authority have applied a Part V condition and Section 47 condition, noting that the part V agreement relates solely to one bedroom units and does not cover the two bedroom/three person units. Given the absence of information on file regarding any agreement to provide social housing, I consider that there is ambiguity regarding the proposed tenure of the units.
- 7.6.6. In the event that agreement is not reached with the Council to purchase the units as part of a Turnkey scheme, then I consider that the housing mix would not be in compliance with the Apartment Guidelines due to the overprovision of two bedroom/three person units, which are provided at 60% of the overall total. As such, should the Board grant permission, then I recommend that a condition be imposed

securing the development as social housing and requiring a new application if it reverts to market housing in order to address the deficiencies in unit mix and the provision of two bedroom/three person units.

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 Lough Swilly SAC and SPA in view of the conservation objectives of a number of qualifying interest features 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 – Natura Impact Statement

- 9.1. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Lough Swilly SAC and SPA in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.
- 9.2. Following an examination, analysis and evaluation of the NIS and all associated material submitted, I consider that adverse effects on site integrity of the Lough Swilly SAC and SPA 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.
- 9.3. My conclusion is based on the following:
- Detailed assessment of construction and operational impacts.
 - Effectiveness of mitigation measures proposed including the implementation of a CEMP, the implementation of the Invasive Species Management Plan and the appointment of an Ecological Clerk of Works.
 - Application of planning conditions to ensure application of these measures.
- 9.4. I am therefore satisfied that the proposed development will not affect the attainment of conservation objectives for the Lough Swilly SAC or SPA.

10.0 Recommendation

10.1. I recommend that planning permission be refused for the reasons set out below.

11.0 Reasons and Considerations

1. The proposed development, by reason of its excessive height relative to surrounding buildings, its bulk and massing, would represent an abrupt transition in scale and would constitute a visually discordant and incongruous feature at odds with the surrounding townscape. The proposed development would seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Terence McLellan
Senior Planning Inspector

25th March 2025

Appendix 1 – Appropriate Assessment Screening

Screening for Appropriate Assessment Test for likely significant effects

Step 1: Description of the project and local site characteristics

Case file: ABP-321460-24

Brief description of project	Development of 30 apartments in a six storey building. The development includes all relevant site development works and the provision of 14 car parking spaces.
Brief description of development site characteristics and potential impact mechanisms	<p>The site is brownfield land adjoining the River Swilly and located in Letterkenny town centre. The site is generally flat with the exception of the riverbank which reduces in level by approximately three metres. The surface of the site is generally compacted gravel with some ruined sections of walls and railings along the boundaries and colonising vegetation.</p> <p>A detailed description of the site and the proposed development is provided in Section 1 and 2 of the Inspectors report and detailed specifications of the proposal are provided in the AA screening report/ NIS and other planning documents provided by the applicant. In summary it is proposed to construct 30 apartments in a six storey building.</p> <p>Potential impact mechanisms relate to construction and operational impacts in terms of surface water drainage to the River Swilly.</p>
Screening report	Yes, incorporated within the NIS set out below.
Natura Impact Statement	Yes, prepared by Greentrack Environmental Consultants (September 2024),
Relevant submissions	None.

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

Two European sites were identified as being located within a potential zone of influence of the proposed development as detailed in Table 1 below. I note that the applicant included a greater number of European sites in their initial screening consideration with sites within 15km of the development site considered. 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 (summary) Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
Lough Swilly SAC Site Code 002287	<p>1130 Estuaries</p> <p>1150 * Coastal lagoons</p> <p>1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>1355 Otter <i>Lutra lutra</i></p> <p>91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>Link - Conservation Objectives</p> <p>In Summary: To maintain the favourable conservation condition of Estuaries and to restore the favourable conservation condition of all other QI's.</p>	1.51km to the east.	Proximity to the River Swilly and potential surface water pathway.	Y
Lough Swilly SPA Site Code 004075	<p>A005 Great Crested Grebe <i>Podiceps cristatus</i> - wintering</p> <p>A028 Grey Heron <i>Ardea cinerea</i> - wintering</p> <p>A038 Whooper Swan <i>Cygnus cygnus</i> - wintering</p> <p>A043 Greylag Goose <i>Anser anser</i> - wintering</p> <p>A048 Shelduck <i>Tadorna tadorna</i> - wintering</p>	2.51km to the east.	Proximity to the River Swilly and potential surface water pathway.	Y

	<p>A050 Wigeon <i>Anas Penelope</i> - wintering</p> <p>A052 Teal <i>Anas crecca</i> - wintering</p> <p>A053 Mallard <i>Anas platyrhynchos</i> – wintering</p> <p>A056 Shoveler <i>Anas clypeata</i> - wintering</p> <p>A062 Scaup <i>Aythya marila</i> - wintering</p> <p>A067 Goldeneye <i>Bucephala clangula</i> - wintering</p> <p>A069 Red-breasted Merganser <i>Mergus serrator</i> - wintering</p> <p>A125 Coot <i>Fulica atra</i> - wintering</p> <p>A130 Oystercatcher <i>Haematopus ostralegus</i> - wintering</p> <p>A143 Knot <i>Calidris canutus</i> - wintering</p> <p>A149 Dunlin <i>Calidris alpina</i> - wintering</p> <p>A160 Curlew <i>Numenius Arquata</i> - wintering</p> <p>A162 Redshank <i>Tringa tetanus</i> - wintering</p> <p>A164 Greenshank <i>Tringa nebularia</i> – wintering</p> <p>A179 Black-headed Gull <i>Chroicocephalus ridibundus</i> – breeding</p>			
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	<p>A182 Common Gull <i>Larus canus</i> – wintering</p> <p>A191 Sandwich Tern <i>Sterna sandvicensis</i> – breeding</p> <p>A193 Common Tern <i>Sterna Hirundo</i> - breeding</p> <p>A395 Greenland White-fronted goose <i>Anser albifrons flavirostris</i> - wintering</p> <p>A999 Wetlands & Waterbirds</p> <p>Link - Conservation Objectives</p> <p>In summary: To maintain the favourable conservation condition of all QI's.</p>			
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Baseline surveys of the site were undertaken in September 2024, with a walkover establishing the general characteristics of the site. No open drains were noted within the site boundary. The Swill stream flows to the east of the site but does not drain the site. Three habitats were established on site as follows:

- Building and Artificial Surfaces (BL3)
- Recolonising Bare Ground (ED3)
- Scrub (WS1).

Himalayan balsam and Japanese Knotweed are located within the scrub portion of the site on the southern boundary and along the riverbank.

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

The proposed development will not result in any direct effects on either the Lough Swilly SAC or SPA. However, due to the nature of the development and its proximity to the River Swilly, impacts generated by the construction and operation of the housing development require consideration. Sources of impact and likely significant effects are detailed in the Table below.

Screening matrix

Site name	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Lough Swilly SAC Site Code 002287	<p>Direct pathway to SAC:</p> <p>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>Spread of invasive plant species, at all stages of the project, including Himalayan Balsam and Japanese Knotweed which have both been recorded on the development site</p> <p>Increased human disturbance at this site, including noise, particularly during the construction/ installation phase</p>	<p>A surface water pathway exists from the subject site to the SAC and SPA. There is a secondary pathway through groundwater. Pathways could introduce water to the SAC and SPA 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 and SPA.</p> <p>This could result in potential damage to habitats and QI species depending on water quality.</p> <p>There are potential effects on foraging Otter which are QI species for the SAC. These effects are associated with increased noise at construction phase.</p> <p>Further effects relate to the potential spread of invasive species associated with ground disturbance activities during the construction phase.</p>
	Likelihood of significant effects from proposed development (alone): Yes	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
	Impacts	Effects
Lough Swilly SPA Site Code 004075	As above	<p>Disturbance during construction</p> <p>A decline in water quality would undermine the conservation objectives set for water quality targets and to prey availability</p>

	Likelihood of significant effects from proposed development (alone): Yes
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?
<p>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</p> <p>Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in significant effects on the Lough Swilly SAC and SPA.</p> <p>I concur with the applicants' findings that such impacts could be significant in terms of the stated conservation objectives of the SAC and SPA when considered on their own and in combination with other projects and plans in relation to pollution related pressures, impacts on water quality, and disturbance on qualifying interest habitats and species.</p>	
<p>Screening Determination</p> <p>Finding of likely significant effects</p> <p>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 Lough Swilly SAC and SPA in view of the conservation objectives of a number of qualifying interest features of those sites.</p> <p>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.</p>	

Appendix 2 – 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 solar farm development in view of the relevant conservation objectives of the Lough Swilly SAC and SPA 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 (September 2024).

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

- None.

European sites

Lough Swilly SAC (002287):

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

- (i) Water quality degradation (construction and operation)
- (ii) Disturbance of mobile species
- (iii) Spread of invasive species

See Section 7.1 of the NIS

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (as relevant -summary)	Potential adverse effects	Mitigation measures (summary) NIS SECTION 6.11
1130 Estuaries	Maintain favourable conservation condition	Water resource quality degradation as a result of increased sedimentation,	Pollution control measures and construction

		pollution incidents, spillages, lack of water management. Dust generation.	water management, general surface and foul water management.
1150 * Coastal lagoons	Restore favourable conservation condition		
91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles	Restore favourable conservation condition	Spread of invasive species - Himalayan Balsam and Japanese Knotweed.	Application of a Construction Environmental management plan. Application of an invasive Species Management Plan.
1355 Otter Lutra lutra	Restore favourable conservation condition	Potential for disturbance to foraging otter during construction due to noise.	Employment of an Ecological Clerk of Works. Disturbance Limitation measures.

Assessment of issues that could give rise to adverse effects:

(i) Water Resource Quality Degradation and Dust

Water quality risks have been identified through increased sedimentation stemming from clearance, loose soil, and lack of water management. Potential pollution incidents stemming from accidental spillages, hazardous material mismanagement, improper storage leading to pollutant suspended in surface water entering pathway to the SAC. In terms of dust, a build-up of dust in and around the subject site has the potential to be washed/blown into the Natura 2000 sites during heavy rains which could contribute to nutrient enrichment and sedimentation, causing a decline in water quality and habitat quality.

At operational stage the main risks are that the potential failure of surface water drainage infrastructure could lead to uncontrolled run-off of captured waters resulting in sediment or oil laden runoff entering the pathways to the SAC which could negatively impact on water quality. Further risks include the potential failure of foul water drainage pipework could lead to leaks of high nutrient wastewater which could enter drainage channels.

Mitigation measures and conditions

An Ecological Clerk of Works (ECoW) must be employed on site to oversee the implementation of environmental protection measures, ensure compliance with best practices and liaise with site personal and adapt protection measures as the development progresses. The protection measures illustrated in Figures 7.1 and 7.2 are to serve as a guide. Designated areas for the

measures outlined will be moved as the development progresses. This is always to be carried out with the approval of the ECoW.

The proposed phasing sequence (site clearance and construction) has been arranged such that the area encompassed by each phase includes the stormwater attenuation and discharge facilities to serve all infrastructure in that area. Capture drains are to be installed around the site. The position, sizing and orientation can be changed to facilitate works and improve drainage in liaison with the ECoW.

Capture drains will divert surface water from the site to the attenuation ponds. The attenuation ponds will be constructed to appropriate size and lined with an impermeable membrane and agreed with the ECoW. Additional surface water management measures for construction include silt fencing and silt socks. This provides a dual barrier to fugitive surface water. The final outflow from the attenuation pond will be fitted with geotextile filtration mesh prior to flow through silt fencing.

Throughout the development's construction phase, inspections shall be carried out to ensure that these systems are operating as designed and have not been contaminated or suffered excessive sedimentation. This shall be performed by the ECoW and records shall be kept of all inspections.

During construction, the development's internal stormwater collection network shall not yet be in place. As storm infrastructure is installed the construction water management can be altered to allow for settled collected stormwater to drain to installed infrastructure.

Sediment Control

- A combination of silt fencing and silt socks must be employed to avoid diffuse pollution of sediment during construction. Silt fencing will be used for areas where posts can be driven into ground and silt socks are to be used for areas of hardstanding.
- A dual barrier silt fence is to be erected in the location shown in Figure 7.1 of the NIS. The silt fencing must be affixed to 1.2m high post and rail fence c.2.5m from the site boundary. The silt fencing must be inspected regularly for tears by the site foreman and repairs carried out immediately.
- A mesh of terrastop Gr180 or equivalent is to be used in a dual layer fashion with a c.0.5m spacing between fences.
- Temporary attenuation ponds must be constructed in the location shown in Figure 7.1. All surface water must be directed to the attenuation ponds by means of capture drains. Outflow from the attenuation ponds will be through the double silt fence.
- The amount of time stripped ground and soil stockpiles are exposed is to be limited to only when required. When not in use stockpiles are to be covered with a membrane.
- Clearance works are to cease in periods of high rainfall denoted by a Met Eireann orange advisory warning for rainfall.

Pollution Control

- Establish dedicated secure areas for the storage of fuel and chemicals. These areas must be sited away from watercourses and sensitive habitats and must be fully bunded to contain accidental spillages.
- Bunds must be sized to contain the full volume of all fluids stored within plus at least a 10% safety volume. Ancillary equipment such as hoses and pipes must be contained within the bund. Taps, nozzles or valves will be fitted with a lock system.
- Fuel and oil stores including tanks and drums must be regularly inspected for leaks and signs of damage.
- Drip trays must be used for fixed or mobile plant in order to retain oil leaks and spills.
- Refuelling to take place in designated area near site entrance.
- All plant and machinery must be serviced before being mobilised to site. Construction plant must be regularly inspected for leaks and fitness for purpose.
- Spill kits must be kept on-site.
- Personnel must be trained in spillage response.
- Cement and concrete usage shall be subject to careful management to ensure no accidental spillage and entry to watercourse occurs.
- Precast concrete shall be used where possible.

Dust Control

- Dust suppression techniques must include water spraying of stockpiles and haul roads and temporarily curtailing specific operations when unfavourable weather conditions are prevailing (e.g. during dry, windy weather when the prevailing winds may cause dust to be blown towards local receptors).
- Material stockpiles must be covered by tarpaulin during dry and windy weather.
- Vehicles carrying loose aggregate and workings must be sheeted at all times.
- Completed earthworks must be covered, seeded, or vegetated where appropriate and practicable in relation to the phasing of the development.
- Surface areas of stockpiles must be minimised to reduce area of surfaces exposed to wind pickup.

General Surface and Foul Water Management

- A surface water management system will capture stormwater from all impermeable areas post construction, and discharge to River Swilly after attenuation and flow control measures throughout the operation of the proposed development.
- A class 1 bypass separator (Kingspan NSBP006 which is sized for areas of up to 3335m² or an equivalent system) must be installed within the site as per figure 7.2 to capture surface runoff from site before discharge offsite. This may be altered in line with recommendations from the ECoW.

- Foul water is to be collected via a drainage network and discharged to the public foul sewer. All foul water infrastructure is to adhere to all legislative requirements and the Irish Water Code of Practice for Wastewater Infrastructure.
- Ensure operating efficiency of surface water drainage infrastructure. Surface water drainage apparatus should be regularly inspected and maintained as per Irish Water Code of Practice guidance. A maintenance manual should be kept tracking performance and maintenance of systems.
- Ensure operating efficiency of foul water treatment system is maintained. Foul water infrastructure should operate in line with manufacturer guidelines.

I am satisfied that the preventative measures which are aimed at interrupting the source-pathway-receptor will reduce possible effects to a non-significant level and that adverse effects can be prevented.

(ii) Disturbance of mobile species

There is a potential risk of disturbance to foraging otters as a result of increased disturbance during construction. No works are required to the watercourse or the riverbank and the development will not result in any temporary or permanent barriers to movement.

Mitigation measures and conditions

- Plant used at the site must have noise emission levels that comply with the limiting levels defined in EC Directive 86/662/EEC and any subsequent amendments. Any plant that is used intermittently must be shut down when not in use to minimise noise levels.
- All construction activities must follow the guidelines as set within BS 5228 - 1:2009+A1 2014. This includes guidance on several aspects of construction site practices, which include, but are not limited to: (a) Selection of quiet plant, (b) Control of noise sources, (c) Screening, (d) Hours of work.
- The best means practical, including proper maintenance of plant, must be employed to minimise the noise produced by on-site operations.
- All vehicles and mechanical plant must be fitted with effective exhaust silencers and maintained in good working order for the duration of the contract.
- Compressors must be of the “sound reduced” models fitted with properly lined and sealed acoustic covers which must be kept closed whenever the machines are in use and all ancillary pneumatic tools must be fitted with suitable silencers.

I am satisfied that the measures proposed are adequate and will be effective in ensuring that the attributes required to restore the favourable conservation condition for Otter will not be adversely affected and that the proposed development will not prevent or delay the attainment of the conservation objective to Restore favourable conservation condition.

(iii) Spread of invasive species

Fragments of Japanese Knotweed and Himalayan Balsam could be further spread throughout the site if left untreated or further invasives could be imported on-site. This could be attached to

uncleaned machinery. Importation of material containing viable invasive species fragments could lead to further establishment of invasives on site or in adjacent habitats. This is a risk at both construction and operational phase.

Mitigation measures and conditions

- The stands of Himalayan Balsam and Japanese Knotweed within the site must be treated in accordance with the attached management plan (Appendix I) prior to any construction works being undertaken.
- Follow best practice with regard to Biosecurity.
- Validate the source of imported material is free from known infestations of Invasive Species to avoid further spread of invasive species.
- Visually check machinery is clean prior to entry on site. Prohibit entry of uncleaned machinery or equipment on site.

The development should be undertaken in line with the Invasive Species Management Plan appended to the NIS. I am satisfied that the measures proposed can be implemented and will be effective in preventing the spread of invasive species.

In-combination effects

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 when mitigation measures are considered. I am satisfied that the applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures.

Findings and conclusions

The applicant and Planning Authority 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**, will not adversely affect the integrity of this European site.

Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded for the Lough Swilly SAC. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent water resource quality degradation, disturbance to mobile species 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 and conditioned if permission is granted.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment Conservation objectives of the Lough Swilly SAC. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Lough Swilly SPA (004075):

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

- (i) Water quality degradation
- (ii) Spread of invasive species

See Section 7 of the NIS

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures (summary)
A005 Great Crested Grebe <i>Podiceps cristatus</i> - wintering	Maintain favourable conservation condition	Water resource quality degradation as a result of increased sedimentation, pollution incidents, spillages, lack of water management.	Pollution control measures and construction water management, general surface and foul water management.
	water quality		
A028 Grey Heron <i>Ardea cinerea</i> - wintering		Dust generation.	Application of a Construction Environmental management plan.
A038 Whooper Swan <i>Cygnus cygnus</i> - wintering		Spread of invasive species - Himalayan Balsam and Japanese Knotweed.	Application of an invasive Species Management Plan.
A043 Greylag Goose <i>Anser anser</i> - wintering			Employment of an Ecological Clerk of Works
A048 Shelduck <i>Tadorna tadorna</i> - wintering			
A050 Wigeon <i>Anas Penelope</i> - wintering			

A052 Teal <i>Anas crecca</i> - wintering			
A053 Mallard <i>Anas platyrhynchos</i> – wintering			
A056 Shoveler <i>Anas clypeata</i> - wintering			
A062 Scaup <i>Aythya marila</i> - wintering			
A067 Goldeneye <i>Bucephala clangula</i> - wintering			
A069 Red-breasted <i>Merganser Mergus serrator</i> - wintering			
A125 Coot <i>Fulica atra</i> - wintering			
A130 Oystercatcher <i>Haematopus ostralegus</i> - wintering			
A143 Knot <i>Calidris canutus</i> - wintering			
A149 Dunlin <i>Calidris alpina</i> - wintering			

<p>A160 Curlew <i>Numenius</i> <i>Arquata</i> - wintering</p>			
<p>A162 Redshank <i>Tringa</i> <i>tetanus</i> - wintering</p>			
<p>A164 Greenshank <i>Tringa nebularia</i> – wintering</p>			
<p>A179 Black-headed Gull <i>Chroicocephalus</i> <i>ridibundus</i> – breeding</p>			
<p>A182 Common Gull <i>Larus canus</i> – wintering</p>			
<p>A191 Sandwich Tern <i>Sterna</i> <i>sandvicensis</i> – breeding</p>			
<p>A193 Common Tern <i>Sterna Hirundo</i> - breeding</p>			
<p>A395 Greenland White-fronted goose <i>Anser</i> <i>albifrons flavirostris</i> - wintering</p>			

A999 Wetlands & Waterbirds			
<p>Assessment of issues that could give rise to adverse effects:</p> <p>(i) Water quality degradation As above for SAC. Mitigation measures and conditions As above for SAC.</p> <p>(ii) Spread of invasive species As above for SAC. Mitigation measures and conditions As above for SAC.</p>			
<p>In-combination effects</p> <p>I am satisfied that in-combination effects have been assessed adequately in the NIS. The applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures that could act in combination with other plans and projects to generate significant effects on this SPA in view of the conservation objectives for Kingfisher.</p>			
<p>Findings and conclusions</p> <p>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, will not adversely affect the integrity of the Lough Swilly SPA in view of the relevant conservation objectives.</p> <p>Based on the information provided, I am satisfied that adverse effects 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 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.</p> <p>Reasonable scientific doubt</p> <p>I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.</p>			

Site Integrity

The proposed development will not affect the attainment Conservation objectives of the River Swilly SPA. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Lough Swilly SAC and SPA in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

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 site integrity of the Lough Swilly SAC and SPA 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.

My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- Effectiveness of mitigation measures proposed including the implementation of a CEMP, the implementation of the Invasive Species Management Plan and the appointment of an Ecological Clerk of Works.
- Application of planning conditions to ensure application of these measures.
- The proposed development will not affect the attainment of conservation objectives for the Lough Swilly SAC or SPA.

Appendix 3 Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321460-24		
Proposed Development Summary	Construction of 28 apartments with all associated site works. A Natura Impact Statement was submitted with further information. (Amended to 30 units in decision description).		
Development Address	Paddy Harte Road & Pearse Road, 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	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>
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	<input checked="" type="checkbox"/>	Class 10 – Infrastructure Projects.	Proceed to Q3.
No	<input type="checkbox"/>		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	<input type="checkbox"/>		EIA Mandatory EIAR required
No	<input checked="" type="checkbox"/>		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	Class 10 (b)(i) - threshold >500 dwellings. Proposed development is for 30 apartments.	Preliminary examination required (Form 2)

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

Inspector: _____ **Date:** _____

Appendix 4

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321460-24
Proposed Development Summary	Construction of 28 apartments with all associated site works. A Natura Impact Statement was submitted with further information. (Amended to 30 units in decision description).
Development Address	Paddy Harte Road & Pearse Road, Letterkenny, Co. Donegal
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(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>	<p>The proposed development would provide residential development in a built up urban town centre location. The development would be significantly taller than the immediate surrounding townscape but the increased height and scale are not considered to result in significant environmental effects.</p> <p>No demolition works are proposed. Construction materials and activities would be typical for an urban 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, temporary in nature, and could be suitably managed through a Construction Environmental Management Plan.</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 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>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved 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).</p>	<p>The development would conform to the built up nature of the urban town centre location. There would be no significant impact on any protected areas, protected views, built or natural heritage or European Sites.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the nature and scale of the proposed development, its urban location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act</p> <p>All development has the potential for some impacts/disturbance during the construction phase such as noise, vibration, dust, air quality and traffic. However, these</p>

		impacts would be short term and temporary and can be appropriately managed and mitigated by way of conditions and the implementation of a detailed Construction Environmental Management Plan.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)