



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-322507-25

<b>Development</b>	House and installation of wastewater treatment system and all associated site works. An NIS accompanies this application.
<b>Location</b>	CRUIT ISLAND (UPPER), KINCASSLAGH, CO. DONEGAL
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2450165
<b>Applicant(s)</b>	Louise Purdy (Doherty)
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Cormac Corrigan and Affric Egan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 August 2025
<b>Inspector</b>	Claire McVeigh

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## **1.0 Site Location and Description**

- 1.1. The subject site, stated as 0.21ha, is located on Cruit Island (Upper), Donegal approximately 1km east from Kincaslough and 8km northeast from Dungloe positioned within the Donegal Gaeltacht. The subject site is accessed via a narrow bridge and roadway off the (L1483).
- 1.2. The topography of the land rises from this narrow pathway up to the subject site which sits between 1m and 2m higher than the adjoining lands to the south and southeast. The topography of the site is steeply rising from the roadway and then it levels off forming a high point in the landscape relative to the adjoining lands to the southeast of the site. The submitted Natura Impact Statement (NIS) sets out that the habitat on site corresponds with GS1 Dry Calcareous Grassland with transitional elements of CD3 Fixed Dune occurring. Invasive species Montbretia was identified on site in the north and west of the site. The site is partially bounded by a hedgerow.
- 1.3. The subject site is a backland site, surrounded by existing residential development in the form of single and two storey structures accessing off the main roadway. I note there is an organic form of development with buildings generally fronting onto the roadways of the island, there are a few outbuildings, a static caravan and sheds in the wider area.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the construction of a single storey L-shaped house (I note the reduced floor area, following revision made at Further Information stage, is not stated) with proposed floor level of 8.5m and ridge level of 13.6m, and installation of wastewater treatment system within the front garden area.
- 2.2. An access roadway is proposed of approximately 115m in length running from the existing roadway up the slope along the southern boundary of the existing dwelling (shown to be the applicant's brother's house). The proposed roof structure is shown with a 25-degree pitch. Heating system is proposed to the air to water with underfloor heating and a rainwater harvesting unit is proposed with excess draining to a swale to the rear of the site along the southwestern boundary.
- 2.3. A Natura Impact Statement (NIS) has been submitted with the application.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On the 25 April 2025 the planning authority decided to grant permission subject to 16 no. conditions (please refer to section 3.2.3 for details of bespoke conditions).

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

#### **3.2.1. Planning Reports**

- Planner's report dated the 13 August 2024 requests FI:
  - Form B Rural Housing Application Form to correspond with the County Development Plan 2024-2030.
  - Revised drawings for more traditionally inspired design to accord with Donegal County Council's 'Building a House in Rural Donegal – A Local, Siting and Design Guide'. Applicant advised that the application site is within an area of Especially High Scenic Amenity and the redesign should integrate with the host landscape and existing development in the immediate context.
  - Cross sections to show the existing ground level, proposed site level, existing ground levels of the two adjoining properties to the east and the FFL of the proposed house and FFL of the properties to the east.
  - Revised site layout plan providing storm/surface water management proposals and final point of discharge.
  - A Natura Impact Statement.
  - Copy of newspaper notice of the intention to submit an NIS.
- Planner's report dated 11 March 2025 requests clarification of FI addresses the matters raised by the Department of Housing, Local Government and Heritage in respect of the NIS.
- Planner's report dated 22 April 2025 notes the content of the addendum NIS report submitted states that the green space is to be managed as coastal grassland with one annual cut late summer/early autumn and represents a

significant partition of the overall site (approximately 60%). Additional mitigation measure includes no imported topsoil to the site and any topsoil removed during the works to be reused on site. AA Screening Determination attached.

### 3.2.2. Other Technical Reports

- Roads – no objections

### 3.2.3. Conditions

- Condition no. 1 - Development shall be carried out as per revised site layout map received 23/01/2025 and revised house type drawing no. 04JUN24 REV Jan 25 received on 23/01/2025.
- Condition no. 3 - The dwelling shall be used as a permanent house only and shall not be used for the purposes of a holiday home or as short-term rental accommodation.
- Condition no. 4 - Prior to commencement of development permanent visibility splays of 50 m shall be provided in each direction to the nearside road edge at a point 2.4m back from road edge.
- Condition no. 7 (a) - The access road shall not be black topped; it shall be surfaced with a natural or coloured aggregate gravel and not defined with concrete kerbing but left with a natural edge finish. And 7 (b) private lighting shall not be constructed along the private access road from the public road without prior written agreement of the planning authority.
- Condition no. 8 (a) and (b) - Prior to commencement of development the applicant shall submit revised plans detailing a screen fence along the southeastern boundary of the site between the proposed and existing dwelling. Same shall be a close boarded timber fence maximum height of 1.8m back planted with a native hedgerow.
- Condition no. 9 - The finished floor level of the dwelling house shall not exceed 8.5m above the centreline of the adjoining public road detailed on site layout plan received 23/01/2025.

- Condition no. 12 - An Ecological Clerk of Works shall be engaged on site for the duration of the works to supervise, monitor and ensure the strict implementation of the Construction Method Statement and Environmental Control Measures, particularly the Montbretia Management Plan.
- Condition no. 13 - All mitigation measures contained in the NIS received on the 23/01/2025 and the addendum received 31/03/2025 shall be implemented in full.

### 3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage (DHLGH) Development Applications Unit (DAU):

Report dated 8 July 2024: Recommends that the proposed development should be screened for Appropriate Assessment given the proposed development is contained within the Gweedore Bay and Islands SAC boundary, which may impact upon coastal habitat and/or species.

Report dated 24 February 2025: Notes the submission of the AA Screening and Natura Impact Statement (NIS) excerpt of report conclusions copied below –

*“The AA process (i.e. Article 6(3) and 6(4) of the Habitats Directive) is a key protection mechanism for the Natura 2000 site network, also known as European Sites. AA is a focused and detailed impact assessment. The assessment cannot have lacunae or gaps, and must contain complete, precise and definitive findings and conclusions.*

*The NIS concludes that the proposed project will have no significant adverse effects on the integrity of any European sites if all mitigating measures as outlined are implemented. However, the habitat is described as Dry Calcareous Grassland (GS1) with transitional elements of Fixed Dune (CD3) occurring. While these habitats are not a qualifying interest for the SAC, they may however be supporting habitats, and were included within the SAC as they historically held important habitats and thus will retain some of the biodiversity of species within the seed bank.*

*Furthermore, the precarious precedent of allowing new developments within an SAC, without some form of compensation of habitat area, will gradually diminish the land area of the European sites. Additionally, it could not be regarded as sustainable development, as undertaken by the council in the Donegal County Development Plan, which sets out a strategy for the proper planning and sustainable development of Donegal from 2024-2030. The Department reminds the council that an Appropriate Assessment carried out under Article 6(3) of the Habitats Directive must contain complete, precise and definitive findings and conclusions, in the light of the best scientific knowledge in the field. It should be capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned. In the light of the conclusions of the assessment of implications for the site, the competent national authorities shall agree to the project only after having ascertained (i.e. made certain) that it will not adversely affect the integrity of the site concerned. That is the case where no reasonable scientific doubt remains as to the absence of such effects. Where doubt remains as to the absence of adverse effects on the integrity of the site linked to the plan or project being considered, the competent authority must reject the application for authorisation”.*

### **3.4. Third Party Observations**

One third party submission was received from Cormac Corrigan & Aifric Egan (the appellants) and a further third-party submission made following further information response by Cormac Corrigan & Aifric Egan. The submissions made reflect the appeal grounds submitted.

## **4.0 Planning History**

No planning history records are available relating to the subject site.

*Properties to the southwest*

03/2203 Planning permission granted (1 August 2003) for 2 no. dwelling houses with treatment systems. Condition no/ 8 required that all site boundaries shall be planted with hedgerow of broadleaved semi-mature species native to the area.



*Property to the North/northeast of the subject site*

20/50859 Extensions to existing dwelling and all associated site development works.

Adjoining site immediately to the east

99/2303 Planning permission granted 7 October 1999) for the erection of a new house and septic tank.

## 5.0 Policy Context

### 5.1. Donegal Development Plan 2024-2030

The subject site is located within the Donegal Gaeltacht. The area is designated as 'Areas of Especially High Scenic Amenity' and 'Areas Under Holiday Home Pressures'.

**L-P-1** To protect areas identified as 'Especially High Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only developments of strategic importance, or developments that are provided for by policy elsewhere in this Plan may be considered.

**RH-0-1** To ensure that new residential development in rural areas provide for genuine rural need.

#### **Rural Housing Policy RH-P-2 applies:**

To consider proposals for new one-off rural housing within 'Areas Under Strong Holiday Home Influence' from prospective applicants that can provide evidence of a demonstrable economic or social need [my emphasis](see 'Definitions') to live in these areas including, for example, the provision of evidence that they, or their parents or grandparents, have resided at sometime within the area under strong holiday home influence in the vicinity of the application site for a period of at least 7 years. The foregoing is subject to compliance with other relevant policies of this plan, including Policies RH-P-9.

This policy shall not apply where an individual has already had the benefit of a permission for a dwelling on another site, unless exceptional circumstances can be demonstrated.

An exceptional circumstance would include, but would not be limited to, situations where the applicant has sold a previously permitted, constructed and occupied dwelling, to an individual who fulfils the Bonafide requirements of that permission.

New holiday homes will not be permitted in these areas.

#### Definitions:

**4. Rural Areas of Especially High Scenic Amenity:** Are sublime natural landscapes of the highest quality that are synonymous with the identity of County Donegal. These areas have extremely limited capacity to assimilate additional development and accordingly development proposals in such areas must be formulated to ensure adequate integration into the receiving landscape and must otherwise comply with all other objectives and policies of the Plan.

### **9. Economic Need and Social Need**

#### Economic Need

Persons working full-time or part-time in rural areas including:

- Full-time farming, forestry, or marine related occupations,
- Part time occupations where the predominant occupation is farming/natural resource related.
- Persons whose work is intrinsically linked to rural areas such as teachers in rural schools.

#### Social Need

Persons who are Intrinsic part of the Rural Community including:

- Farmers, their sons, and daughters and or any persons taking over the ownership and running of farms.,
- People who have lived most of their lives in rural areas.
- Returning emigrants who lived for substantial parts of their lives in rural areas.

## **Location, Siting and Design and Other Detailed Planning Considerations**

### **Policies RH-P-9:**

a) Proposals for individual dwellings (including refurbishment, replacement and/or extension projects) shall be sited and designed in a manner that is sensitive to the integrity and character of rural areas as identified in Map 11.1: 'Scenic Amenity' of this Plan, and that enables the development to be assimilated into the receiving landscape. Proposals shall be subject to the application of best practice in relation to the siting, location and design of rural housing as set out in Donegal County Council's 'Rural Housing Location, Siting and Design Guide'. In applying these principles, the Council will be guided by the following considerations: -

- i. A proposed dwelling shall avoid the creation or expansion of a suburban pattern of development in the rural area;
- ii. A proposed dwelling shall not create or add to ribbon development (see definitions);
- iii. A proposed dwelling shall not result in a development which by its positioning, siting or location would be detrimental to the amenity of the area or of other rural dwellers or would constitute haphazard development;
- iv. A proposed dwelling will be unacceptable where it is prominent in the landscape;
- v. A proposed new dwelling will be unacceptable where it fails to blend with the landform, existing trees or vegetation, buildings, slopes or other natural features which can help its integration. Proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered nor will proposals that result in the removal of trees or wooded areas beyond that necessary to accommodate the development. The extent of excavation that may be considered will depend upon the circumstances of the case, including the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings.

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

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

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

## **5.2. Rural Housing Location, Siting and Design Guide (DCC)**

The information in this document encourages a site led approach to designing a house in the countryside and in doing so reinforces a local tradition where the architecture of Donegal is based not on style or typology but is generated in response to the land and the elements.

Excerpts from:

3.2 Topography The building should be sited so as not to break the skyline or waterline.

3.6 Access and Entrance

Entrances and driveways should be located to, where possible, follow existing contour lines, crossing them harmoniously thus integrating the dwelling with its entrance and site.

#### Section 4.1 Plan Form

The linear plan form is of particular and historic rural reference, considering a narrow plan, modest in scale with a vertical emphasis to the gables. Notwithstanding the above, a deep plan footprint may equally be considered appropriate depending on the opportunities afforded by the site.

### 5.3. **Natural Heritage Designations**

The subject site is primarily located, with exception to part of the proposed vehicular access, within the designated area of both the Special Area of Conservation: Gweedore Bay and Islands SAC (Site Code: 001141) and the Proposed Natural Heritage Area: Gweedore Bay and Islands (Site Code 001141).

## 6.0 **Environmental Impact Assessment Screening**

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

## 7.0 **The Appeal**

### 7.1. **Grounds of Appeal**

One third party appeal has been made by Cormac Corrigan and Aifric Egan owners of the land adjacent (South/southeast) to the site of the proposed development.

- Impact on residential amenity:

- concerns that sufficient regard was not given to protecting the privacy of the existing property and its private amenity space. Issues raised with respect to the position of the proposed dwelling, the difference in ground levels between the proposed and existing and the location of the proposed development to the rear of existing dwellings.
  - Concerns that the proposed development would be overbearing and result in significant overshadowing of the house from early afternoon to sunset.
  - Proposed measures included as conditions to mitigate the impact of the proposed development on the existing privacy include close boarded screen fencing (maximum height of 1.8m) would create a bunker feel to the property and would create further significant overbearing and unacceptable overshadowing impact.
- Lack of availability of demonstrable evidence of rural housing need - Application Form B Rural Housing not available to view.
  - Do not accept that the revised design meets the with the guidance contained in the 'Rural Housing Location, Siting and Design Guide'.
  - Natura Impact Statement (NIS) addendum report – the planning authority did not seek confirmation from the DHLGH that they were satisfied with the addendum information, when received, and clarification was not sought that no other information was required to ensure that the decision was fully informed.

## **7.2. Applicant Response**

- Response to appeal received out of time.

## **7.3. Planning Authority Response**

Notes the contents of the third-party appeal and considers that the majority of matters raised have been previously addressed in the planning reports of the Executive Planner dated 13/08/2024, 11/03/2025 and 15/04/2025.

In response to one of the specific grounds of appeal makes the following observation:

- With regard to point 5 of the appellants submission, they advise that Application Form B Rural Housing Application Form would not have been made publicly available on the council's website as it is considered to be a confidential document containing personal information relating to the applicant.

#### **7.4. Observations**

- None

### **8.0 Assessment**

8.1. Therefore, 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:

- Principle of development
- Design
- Impact on residential amenity
- Appropriate Assessment
- Other Matters

#### **8.2. Principle of development**

8.2.1. Policy L-P-1 as noted above (see section 5.1 of my report), limits development within Areas of Especially High Scenic Amenity' (EHSA) to only to those of strategic importance or development that are provided for by policy elsewhere in the plan.

Policy L-P-1 indicates a restrictive policy to protect these important natural landscapes. Rural Housing can be considered within such landscapes, as set out in Chapter 6 Housing of the County Donegal Development Plan 2024-2030 but must be able to demonstrate that they also can assimilate into the landscape, I shall address this issue in section 8.3.

- 8.2.2. The applicant submitted a supplementary rural housing application form relating to the previous development plan (Donegal County Development Plan 2018-2024), a letter from an Elected Member of Donegal County Council confirming Bona Fide and a statement from the applicant explaining their rural housing need with the initial application documentation. The planning authority sought by way of further information the updated Form B Rural Housing Application Form relating to the current development plan (Donegal County Development Plan 2024-2030).
- 8.2.3. In response the applicant submitted the new Form B Rural Housing Application Form. I note that on Form B the applicant incorrectly indicate that the area is within the 'Structurally weak rural area' and that policy RH-P-03 is applicable. For clarity the relevant policy is RH-P-2 for 'Areas Under Strong Holiday Home Influence' in which a demonstrable economic or social need must be evidenced. Form B sets out clearly that a *"prospective applicant is strongly advised to provide multiple, comprehensive and a complete range of documentary evidence in support of their application, and which specifically and evidentially demonstrates their circumstances of housing need within the scope and categories of the relevant rural housing policy and without lacunae. A statement in the absence of evidence will not be sufficient"*.
- 8.2.4. I do not question the bona fides of the close family ties to the area, however, I am of the view that the applicant has provided limited documentary evidence in support of the application having regard to the advice note contained on Form B. This may be in part due to the incorrect selection of rural housing policy area on Form B. Given the details provided with respect to land ownership and the personal statement submitted I do not consider that a refusal of permission would be warranted in this instance. In the event the Commission is minded to grant permission further information could be sought from the applicant to evidentially demonstrate their circumstances of housing need.



### 8.3. Design

- 8.3.1. The subject site is located within an area designated as 'Areas of Especially High Scenic Amenity' (EHSA) and the development plan sets out (see section 6.3.4 of the Donegal County Development Plan 2024-2030) that housing must be of an appropriate quality design, integrate successfully into the landscape and not cause a detrimental change to, or further erode the rural character of the area. Taking into account that the landscape designation of this area signifies a "*sublime natural landscape of the highest quality that are synonymous with the identity of County Donegal*" I am of the opinion that test of whether the proposed development can be assimilated into the landscape is critical.
- 8.3.2. From my site inspection I note that that topography of the site is higher than that of the existing residential dwellings constructed in this part of the Island. I have assessed the proposed development against the guidance contained in the 'Rural Housing Location, Siting and Design Guidance' and would agree with the appellant that design of the dwelling does not accord with this guidance and does not appear to be 'site led' by reason of its position on the highest point of the site, the plan depth with shallow roof pitch and the extensive access roadway necessary as a result of the proposed dwelling's backland position. As noted in the development plan sets out the EHSA landscape designation has limited capacity to assimilate additional development. I am of the view that it has not been demonstrated that the proposed development is of an appropriate quality of design, having regard to the 'Rural Housing Local, Siting and Design Guidance' and Policy RH-P-9 of the development plan, that would integrate successfully into the landscape and would not cause further erosion of the EHSA character of the area.

### 8.4. Impact on residential amenity

- 8.4.1. As already noted above a revised design for the proposed dwelling was submitted in response to the planning authority's further information request. The applicant states that the changes made include a reduced footprint, a shelter wing wall to the proposed patio and a reduction in the width of the bedroom window on the southern gable end to address the third parties concerns with respect to impact on their privacy. In addition, screen planting is proposed along the southeastern boundary

matching that of the *Oleria Traversii* hedging growing on the opposite boundary of the site.

- 8.4.2. The proposed development by reason of its backland position gives rise to issues in terms of the relationship of the front of the house to the rear garden amenity spaces of the adjoining residential properties. The proposed dwelling, as revised, sits at its closest within 5 metres of the shared boundary with the appellants property and is on elevated ground which would in my view exaggerate the proximity of the dwelling. I would agree with the appellants that the proximity and elevated nature of the proposed dwelling to the rear of the existing dwelling would have a detrimental impact on the existing residential amenities of the adjoining property by reason of a reduction in privacy of their rear amenity space and as such would warrant a refusal on these grounds. Notwithstanding, I note the planning authority sought to mitigate privacy concerns by condition (Condition no. 8) requiring that a close boarded timber screen fence of maximum height 1.8m be provided along the southeastern boundary and back planted with native hedgerow. I agree with the appellants that the provision of such a boundary would contribute to a sense of enclosure which would be at odds with the coastal landscape. In the event the Commission is minded to grant permission I would recommend an alternative boundary treatment is conditioned.
- 8.4.3. The appellants are also concerned that the proposed house would result in significant overshadowing from early afternoon to sunset. I note that the proposed development is for a single storey dwelling with a ridge height of approximately 5 metres, however, having regard to the elevated nature of the site there is potential for a greater impact in terms of overshadowing from the single storey structure. No overshadowing analysis has been undertaken. While ordinarily these matters would warrant further consideration and a request for further information, in this instance given the substantive reasons for refusal I do not consider that it would be appropriate to pursue these matters under the current appeal.

## **8.5. Appropriate Assessment**

- 8.5.1. The appellant has raised concerns that the planning authority concluded their assessment and decided the application without receiving further comment from the Department of Housing, Local Government and Heritage's Development application

Unit (DAU) in respect to the Addendum Report to the NIS. I note the statutory timelines within which the planning authority are working within, and it is not within the scope of the appeal to comment on matters relating to same. Notwithstanding, I shall address in full the matters raised by the DAU in their submissions available to me with respect to Appropriate Assessment (AA) when undertaking my own AA of the proposed development, please see section 9.0.

## **8.6. Other Matters**

- 8.6.1. The appellant raises an issue relating to the rural housing application form that was submitted and not available to view on the public file. On a point of clarity, Application Form B is required to be submitted for all rural housing applications, along with appropriate supporting documentation, and is in addition to the standard application form. The purpose of Form B is to allow the applicant to demonstrate how they meet with the applicable rural housing need. As the details are of a personal nature these are not, as standard, made available to the public to view. I have addressed the issue with respect to rural housing need in section 8.2 of my report.

## **9.0 AA Screening and Appropriate Assessment**

- 9.1. The proposed house and wastewater treatment system has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Please see Appendix 3 of this report.
- 9.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Gweedore Bay and Island SAC (site Code 001141). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the site in light of its conservation objectives.

Following an examination, analysis and evaluation of the NIS, all associated material submitted and taking into account observations of the Department of Housing, Local Government and Heritage, I consider that adverse effects on site integrity of the Gweedore Bay and Islands SAC cannot be excluded in view of the conservation objectives of these sites and that reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- The proposed development would result in the removal of grassland with transitional elements of duneland communities within the SAC. The evidence provided in the NIS and addendum NIS report does not sufficiently demonstrate a detailed scientific assessment of effects taking into account the targets and attributes necessary to support the site-specific conservation objectives for the coastal habitats including transitional zones. As a result, I am of the view that the mitigation measures contained within the NIS and Addendum to NIS are not sufficiently comprehensive to determine that no reasonable scientific doubt remains as to the absence of adverse effects.

## **10.0 Water Framework Directive**

10.1. The subject site is located within 160 metres approximately of Gweedore Bay (Code IE\_NW\_160\_0000) with a status of high and the relevant groundwater body is Northwest Donegal (Code IE\_NW\_G\_049) with an overall status of good.

The proposed development comprises the construction of a house, vehicular access and wastewater treatment system. No water deterioration concerns were raised in the planning appeal.

I have assessed the proposed development of a house and wastewater treatment system and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface/and or groundwater waterbodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Nature of the works
- Location from the nearest water bodies

10.2. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes,

groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## **11.0 Recommendation**

I recommend that planning permission is refused for the reasons and considerations as set out below:

## **12.0 Reasons and Considerations**

1. On the basis of the information provided with the application and appeal and in the absence of definitive findings and conclusions with regard to the implications of a proposal for the conservation objectives and integrity of a European site the Commission cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of Gweedore Bay and Islands SAC (Site Code: 001141).
  
2. It is considered that the proposed development by reason of (i) its position on the highest point of the site and location to the rear of a line of existing residential development, (ii) its elevated siting significantly above the roadway with resultant extensive access roadway, and, (iii) its deep plan footprint and shallow roof pitch design would result in a visually intrusive development that would be detrimental to the visual amenities of the Area of Especially High Scenic Amenity as designated in the County Donegal Development Plan 2024-2030. As such, it has not been demonstrated that the proposed development is 'site led' and of an appropriate quality of design, having regard to the 'Rural Housing Local, Siting and Design Guidance' and Policy RH-P-9 of the development plan, that would integrate successfully into the landscape and would not cause further erosion of the Area of Especially High Scenic Amenity character. The

proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development by reason its backland position, proximity and elevated nature to the rear of the existing dwellings would have a detrimental impact on the existing residential amenities of the adjoining property by reason of a significant reduction in privacy of rear amenity space. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

---

Claire McVeigh  
Planning Inspector

18 August 2025

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

<b>Case Reference</b>	322507-25
<b>Proposed Development Summary</b>	House and installation of wastewater treatment system and all associated site works.
<b>Development Address</b>	Cruit Island (upper), Kincasslagh, Co. Donegal.
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  <input type="checkbox"/> No, no further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	N/A
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

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

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

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



## Appendix 2: Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	322507-25
<b>Proposed Development Summary</b>	House and installation of wastewater treatment system and all associated site works. An NIS accompanies this application.
<b>Development Address</b>	Cruit island (Upper), Kincasslagh, Co. Donegal.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The proposed development is for the construction of a single storey detached dwelling house with wastewater treatment system and polishing filter.</p> <p>The project due to its size and nature will not give rise to significant production of waste during both the construction and operation phases or give rise to significant risk of pollution and nuisance.</p> <p>The construction of the proposed development does not have potential to cause significant effects on the environment due to water pollution. The project characteristics pose no significant risks to human health. The proposed development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p>
<b>Location of development</b>  (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>Special Area of Conservation: Gweedore Bay and Islands SAC (Site Code: 001141) and the Proposed Natural Heritage Area: Gweedore Bay and Islands (Site Code 001141).</p> <p>It has been concluded that there is potential for significant effects on a European site(s) and an Appropriate Assessment has been undertaken having regard to the documentation on file including the NIS and NIS addendum report. Impacts on European sites addressed under Appropriate Assessment, in Section 9.0 and Appendix 3 of my report.</p> <p>It is considered that, having regard to the limited nature and scale of the development, there is no real likelihood of significant effect on other significant environmental sensitivities in the area.</p>
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters,	<p>The size of the proposed development is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Projects of the Planning and Development Regulations 2001 as amended.</p>

magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	There is no real likelihood of significant cumulative considerations having regard to other existing and/or permitted projects in the adjoining area.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	N/A
There is a real likelihood of significant effects on the environment.	N/A

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

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

(only where Schedule 7A information or EIAR required)

## **Appendix 3: Appropriate Assessment**

### **1.0 Appropriate Assessment**

1.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement (NIS) and associated documents
- Appropriate assessment of implications of the proposed development on the integrity of the European site.

### **1.2. Compliance with Article 6(3) of the EU Habitats Directive**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

### 1.3. Screening the need for Appropriate Assessment

#### **Appropriate Assessment: Screening Determination**

##### **(Stage 1, Article 6(3) of Habitats Directive)**

I have considered the proposed new house and installation of a wastewater treatment system in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

A Screening report, Natura Impact Statement (NIS) and Addendum to NIS has been prepared by *Greentrack Environmental Consultants* on behalf of the applicant and the objective information presented in that report informs this screening determination.

##### **Description of the proposed development**

It is proposed to construct a single storey house, new tertiary wastewater treatment system with infiltration area and distribution bed surface area of 18.75 sq. m and all associated site works including new vehicular driveway on a site, habitats classified in the submitted NIS as GS1 Dry Calcareous Grassland with transitional elements of CD3 Fixed Dune occurring.

I have provided a detailed description of the development in my report (Section 2.0) and detailed specifications of the proposal are provided in the NIS and other planning documents provided by the applicant.

##### **Consultations and submissions**

Submissions which raised issues related to screening for appropriate assessment and the AA process generally, were received in relation to the proposed new house. A summary of each of these submissions and a response to each, is provided below:

*Department of Housing, Local Government and Heritage – Development Applications Unit (DAU)*

- The habitats of the subject site, are not a qualifying interest for the SAC, as described as Dry Calcareous Grassland (GS1) with transitional elements of Fixed Dune (CD3), however, they may be supporting habitats and were included within the SAC as they historically held important habitats.

- Impacts on biodiversity of species within the seed bank of supporting habitats.

Subsequently a NIS addendum report was submitted in response to the clarification further information request and as noted above, this screening for Appropriate Assessment has been informed by the content of the screening for appropriate assessment report that was submitted with the planning application and the addendum report.

*The third-party appellants (Cormac Corrigan & Aiffric Egan*

- Concern that the DHLGH did not comment further on the submitted NIS addendum report. State that it was incumbent on the planning authority to follow up with the DHLGH to ensure that all relevant information was available to it before reaching a conclusion.

I acknowledge the issues related to screening for appropriate assessment and the AA process generally.

On a point of clarity, the planning authority's **Primary Report** (13/08/2024) contains screening for appropriate assessment and concludes that it is not satisfied that the proposed development would not give rise to loss of habitat, impact on protected species and that there is a risk of ground or surface water pollution within the designated lands. The planning authority determined that an Appropriate Assessment of the proposed development is required. Following receipt of the NIS prepared on behalf of the applicant, the **Planner's Second Report** (12/03/2025) requests that the applicant submit an addendum report to address the submission made by DHLGH. The **Planner's Third Report** (22/04/2025) contains an 'Appropriate Assessment Screening for the Purposes of Article 6 of the Habitats Directive' attached as an Appendix.

I note that no Appropriate Assessment has been undertaken by the planning authority.

## European Sites

Table 5.1: Screening of Natura 2000 sites and Zone of Influence of Project using the Source-Pathway-Receptor (S-P-R) model, contained in the NIS, identifies 11 possible European sites proximate to the subject site. From this wide selection one European site is identified as being within a potential zone of influence of the proposed development and identified through the S-P-R, namely Gweedore Bay and Islands SAC.

*“Gweedore Bay and Islands is an extensive and ecologically diverse, coastal and marine site situated between Bloody Foreland in the north and Burtonport in the south, and near the towns of Derrybeg, Bunbeg and Annagary, on the north-west coast of Donegal. It includes a large stretch of coastline, many islands, including Inishsirrer, Inishmeane, Gola, Umfin, Inishfree Lower, Cruit and Owey and areas of marine water between the islands and the coast. The terrain is generally undulating with rocky knolls of exposed rock. The site is underlain with Granodiorite, a basic igneous rock. The coastline is very indented with several large intertidal inlets. Areas of machair grassland and sand dunes occur in several places along the coast and large areas of sandflats are exposed off the coast at low tide.*

*The site supports an excellent diversity of dunes with fixed dunes of particular note for their extent and area. Decalcified dunes are also well represented including a type with *Empetrum nigrum*. Embryonic shifting dunes are well developed, as are marram dunes and dune slacks. Machair occurs at several locations but the quality is often reduced by overgrazing and other activities. The Annex II liverwort species, petalwort (*Petalophyllum ralfsii*) occurs within the site” (taken from Conservation objectives supporting document – coastal habitats, NPWS 2015).*

There is no ecological justification for a wider consideration of sites, and I am satisfied that the Gweedore Bay and Islands SAC as identified in the submitted AA screening and Natura Impact Statement (NIS) is the only European site of relevance which could be impacted by the proposed development applying the source-pathway-receptor model.

European Site	Qualifying Interests	Distance	Connections
Gweedore Bay and Islands SAC (Site Code: 001141) <a href="https://www.npws.ie/protected-sites/sac/001141">https://www.npws.ie/protected-sites/sac/001141</a>	Coastal lagoons [1150]  Reefs [1170]  Perennial vegetation of stony banks [1220]  Vegetated sea cliffs of the	Within the SAC and immediately adjacent	Y  Habitat removal and fragmentation.   Informal drainage

	<p>Atlantic and Baltic coasts [1230]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Decalcified fixed dunes with <i>Empetrum nigrum</i> [2140]</p> <p>Atlantic decalcified fixed dunes (Calluno-Ulicetea) [2150]</p> <p>Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (Salicion arenariae) [2170]</p> <p>Humid dune slacks [2190]</p> <p>Machairs (* in Ireland) [21A0]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-</p>		<p>channels and surface water run-off</p> <p>Ex situ habitat exists nearby for Marsh Fritillary</p>
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	<p>Nanojuncetea [3130]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Euphydryas aurinia (Marsh Fritillary) [1065]</p> <p>Phocoena phocoena (Harbour Porpoise) [1351]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p> <p>Najas flexilis (Slender Naiad) [1833]</p>		
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**Table 1.1**

An ecological survey undertaken found that the site does not support plant communities that correspond with any qualifying habitat for the SAC. The development would result in the removal of grassland with transitional elements of duneland communities within the SAC.

**Likely impacts of the project.**

Direct effects such as habitat loss and indirect effects such as water quality impacts and modification of coastal processes cannot be excluded in the absence of mitigation.

The area proposed for the access roadway is located outside the SAC. This area is adjacent to a patch of sloped grassland outside the SAC that contains Devil's Bit



Scabious (Figure 6.2 of the NIS). This grassland may provide support to the QI Marsh Fritillary.

Invasive Montbretia occurs on the site. Improper management of this infestation could result in spread of this species via water, air, or soil pathways within the SAC.

### **Likely significant effects on the European sites in view of the conservation objectives**

Based on the information provided in the screening report and Natura Impact Statement (NIS), 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 the following impacts:

- Removal of grassland and transitional grassland/duneland within the SAC.
- Damage to coastal habitats and sensitive aquatic receptors associated with surface water borne pollutants and increased sedimentation during construction phase.
- Percolation of foul and surface water to groundwater within SAC via wastewater treatment system and swale would affect water quality.

An examination and analysis of the potential for other plans and/or projects to act in combination with the proposed project to have a significant effect on any European site within its zone of influence is considered in section 7.2 of the NIS.

Whilst I concur with the applicants' findings that such impacts could be significant when considered on their own and in combination with other projects and plans in relation to habitat loss and pollution related pressures on qualifying interest habitats and species, I nevertheless am of the opinion that the submitted NIS and Addendum NIS report do not sufficiently engage with the conservation objectives for the qualifying interests of the SAC. I shall address this issue further in my Appropriate Assessment.

## **Overall Conclusion**

### **Screening determination**

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 Gweedore Bay and Islands SAC in view of the conservation objectives of a number of qualifying interest features of those sites.

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.

### **Appropriate Assessment**

The requirements of Article 6(3) as related to Appropriate Assessment of a project under part XAB, sections 177V 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 dwelling house development in view of the relevant conservation objectives of Gweedore Bay and Islands SAC based on scientific information provided by the applicant and considering expert opinion through observations on nature conservation.

The information relied upon includes the following:

- Natura Impact Statement prepared by *Greentrack Environmental Consultants*
- Addendum NIS report, prepared and submitted by Greentrack Environmental Consultants as further information.
- Submissions made by the Development Applications Unit (DAU) of the Department of Housing, Local Government and Heritage.

I am not satisfied that the information provided is adequate to allow for Appropriate Assessment. I am not satisfied that 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. Please refer to Findings and Conclusions of this AA.

### **Submissions/observations**

Submissions which raised issues related to screening for appropriate assessment and the AA process generally, were received in relation to the proposed new house. A summary of each of these submissions and a response to each, is provided below:

Department of Housing, Heritage and Local Government (Development Applications Unit)

- Notes the habitat of the subject site, are not a qualifying interest for the SAC, as described as Dry Calcareous Grassland (GS1) with transitional elements of Fixed Dune (CD3). Such habitats may however be supporting habitats and were included within the SAC as they historically held important habitats.
- Impacts on biodiversity of species within the seed bank of supporting habitats.

The third-party appellants (Cormac Corrigan & Aifric Egan

- Concerned that the DHLGH did not comment further on the submitted NIS addendum report. State that it was incumbent on the planning authority to follow up with the DHLGH to ensure that all relevant information was available to it before reaching a conclusion.

I acknowledge the issues related to screening for appropriate assessment and the AA process generally.

On a point of clarity, the planning authority's Primary Report (13/08/2024) contains screening for appropriate assessment and concludes that it is not satisfied that the proposed development would not give rise to loss of habitat, impact on protected species and that there is a risk of ground or surface water pollution within the designated lands. The planning authority determined that an Appropriate Assessment of the proposed development is required. Following receipt of the NIS prepared on behalf of the applicant, the Planner's Second Report (12/03/2025) requested that the applicant submit an addendum report to address the submission made by DHLGH. The Planner's Third Report (22/04/2025) contains an 'Appropriate Assessment Screening for the Purposes of Article 6 of the Habitats Directive' attached as an Appendix.

#### European sites

##### **Gweedore Bay and Islands SAC (001141)**

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

- (i) **Impact on coastal habitat and/or species.**
- (ii) **Water quality degradation (construction and operation)**

See table 5.2 of the NIS

<b>Qualifying Interest features likely to be affected</b>	<b>Conservation Objectives Targets and Attributes</b>	<b>Potential Adverse effects</b>	<b>Mitigation measures Section 7.1.1 and 7.1.2 of the NIS as revised in Addendum to NIS report.</b>
<b>Natural Habitat Type</b>			

1150 Coastal lagoons*	To restore / to maintain the favourable conservation objectives.	The development will result in the removal of grassland with transitional elements of duneland communities within the SAC.	The submitted NIS states that "the removal of this habitat does not constate loss of any qualifying habitat and will not fragment any qualifying habitat of the SAC". Please refer to Assessment of issues that could give rise to adverse effects.
1170 Reefs			
1220 Perennial vegetation of stony banks			
1230 Vegetated Sea cliffs of the Atlantic and Baltic coasts	Vegetation structure: Maintain range of coastal habitats including transitional zones, subject to natural processes including erosion and succession.	Surface water pathways provide a SPR chain for effect of sensitive coastal and aquatic receptors southeast of the site.	
1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae)			
1410 Mediterranean salt meadows (Juncetalia maritimi)		Diffuse groundwater flow to the coast provides a pathway to coastal habitat and aquatic receptors including Salt meadows located northwest of the bridge to Cruit Island.	
2110 Embryonic shifting dunes			
2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes)			
2130 Fixed coastal dunes with herbaceous vegetation (grey dunes) *		Invasive species 'Montbretia' occurs n site. Improper management of this infestation could result in spread of this species via water, air or soil pathways within the SAC.	
2140 Decalcified fixed dunes with Empetrum nigrum*			
2150 Atlantic decalcified fixed			

<p>dunes (<i>Calluno-Ulicetea</i>) *</p> <p>2170 Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>)</p> <p>2190 Humid dune slacks</p> <p>21A0 Machairs (* in Ireland)</p> <p>3130 Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i></p> <p>4030 European dry heaths</p> <p>4060 Alpine and Boreal heaths</p> <p>5130 <i>Juniperus communis</i> formations on heaths or calcareous grasslands</p>			
<b>Animal and Plant Species</b>			
<p>1065 Marsh Fritillary <i>Euphydryas aurinia</i></p> <p>1351 Harbour Porpoise <i>Phocoena phocoena</i></p> <p>1355 Otter <i>Lutra lutra</i></p>	<p>To restore/ To maintain the favourable conservation objectives.</p>	<p>Ex-situ QI Species Effect as the subject site is adjacent to a patch of clopped grassland outside the SAC that contains Devil's Bit Scabious (see Figure 2 of the submitted NIS). This grassland</p>	

1395 Petalwort Petalophyllum ralfsii		could provide support to the QI Marsh Fritillary.	
1833 Slender Naiad Najas flexilis			

The above table is based on the documentation and information provided on the file and I am not satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.

In particular, whilst I accept the findings of the vegetation survey contained in the NIS that the habitats identified on the subject site are not Qualifying Interest (QI) habitat of the SAC, I nevertheless note that the DAU of the DHLHH have highlighted in their submission dated 24 February 2025 the Dry Calcareous Grassland (GS1) with transitional elements of Fixed Dune (CD3) occurring habitat on site may be a supporting habitat for the SAC. I note that the conservation objectives for the coastal habitats include a target to *“Maintain range of coastal habitats including transitional zones, subject to natural processes including erosion and succession”*.

The supporting Conservation Objective document (NPWS, 2013) sets out clearly that *“All dune habitats indicated above occur as a complex mosaic of constantly changing and evolving vegetation communities. They are inextricably linked in terms of their ecological functioning and should be regarded a single geomorphological unit. As such, no dune habitat should be considered in isolation from the other dune habitats present at a site, or the adjoining semi-natural habitats which they often form important transitional communities.”*

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

##### **(i) Impact on coastal habitat and/or species**

The proposed development would result in the removal of grassland with transitional elements of duneland communities within the SAC.

I am of the opinion that the evidence provided to me does not sufficiently demonstrate a detailed scientific assessment of effects taking into account the targets and attributes necessary to support the site-specific conservation objectives for the coastal habitats including transitional zones. As a result, I am of the view that the mitigation measures contained within the NIS and Addendum to NIS are not sufficiently comprehensive to determine that no reasonable scientific doubt remains as to the absence of adverse effects.

The DAU of the Department of Housing, Local Government and Heritage (DHLGH) highlighted in their submission, dated 8 July 2024, in respect to the submitted NIS

that an AA determination must contain complete, precise and definitive findings and conclusions with regard to the implications of a proposal for the conservation objectives and integrity of a European site.

As such, on the basis of the information provided with the application and appeal and in the absence of definitive findings and conclusions with regard to the implications of a proposal for the conservation objectives and integrity of a European site the Commission cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of Gweedore Bay and Islands SAC (Site Code: 001141).

#### **Mitigation measures and conditions**

As above.

#### **(ii) Water quality degradation (construction and operation)**

Given the findings in respect of (i) above I am of the opinion that there is reasonable scientific doubt as to the absence of effects.

#### **Mitigation measures and conditions**

As above

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

I am not satisfied that in-combination effects has been assessed adequately in the NIS given the evidence provided does not demonstrate a detailed scientific assessment of effects of the proposed development taking into account the targets and objectives necessary to support the site-specific conservation objectives for the coastal habitats including transitional zones.

#### **Findings and conclusions**

The applicant determined that following the implementation of mitigation measures, the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European site.

The conservation objectives for the coastal habitats include a target to “Maintain range of coastal habitats including transitional zones, subject to natural processes including erosion and succession”. The submitted NIS and addendum NIS report do not engage with or demonstrate a detailed scientific assessment of effects taking into account the targets and attributes necessary to support the site-specific conservation objectives for the coastal habitats including transitional zones.

Based on the information provided, I am not satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment.

**Reasonable scientific doubt**

I am not satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

**Site Integrity**

The proposed development may affect the attainment of the Conservation objectives of the Gweedore Bay and islands SAC (Site Code 001141). Adverse effects on site integrity cannot be excluded, and a 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 Gweedore Bay and Islands SAC (Site Code 001141) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U/ 177AE was required.

Following an examination, analysis and evaluation of the NIS, all associated material submitted and taking into account observations of the Department of Housing, Local Government and Heritage, I consider that adverse effects on site integrity of the Gweedore Bay and Islands SAC cannot be excluded in view of the conservation objectives of these sites and that there is reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- The proposed development would result in the removal of grassland with transitional elements of duneland communities within the SAC. The evidence provided in the NIS and addendum NIS report does not sufficiently demonstrate a detailed scientific assessment of effects taking into account the targets and attributes necessary to support the site-specific conservation objectives for the coastal habitats including transitional zones. As a result, I am of the view that the mitigation measures contained within the NIS and Addendum to NIS are not sufficiently comprehensive to determine that no reasonable scientific doubt remains as to the absence of adverse effects.