



An
Coimisiún
Pleanála

Inspector's Report ABP-322513-25

Development	Construction of a dwelling with waster water treatment plant and all associated site works. NIS accompanies this application.
Location	Porthaw Glen, Tullyarvan, Buncrana, Lifford, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2461977
Applicant(s)	Marie Hegarty Nee Doherty
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Frank Murphy
Observer(s)	None
Date of Site Inspection	11 August 2025
Inspector	Claire McVeigh

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1.0 Site Location and Description

- 1.1. The subject site, stated area of 0.14ha, is located at Porthaw Glen within the plan boundary for Buncrana Area Plan, as contained within the County Donegal Development Plan 2024-2030, on the Inishowen Peninsula. The subject site is 0.15 km from Ned's Point a scenic coastal site comprising a *'battery and ordnance ground with stone revetments, ditches and a low tower dating from 1812, a small pier, a deep-sea diving centre and RNLI lifeboat station and slipway within a small clearing in a wooded area on the shores of Lough Swilly'* (County Donegal Development Plan 2024-2030) The site is accessed via an unnamed local access road connected to the local L-5326-0.
- 1.2. The subject site is irregularly shaped and positioned within an area of mature broadleaved woodland bounded by residential development. The submitted Ecological Impact Assessment (EclA) prepared by Greentrack Environmental Consultants states that the subject site slopes north to southwest and there is a shallow roadside drainage channel that intercepts most surface water run-off.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a two storey 4 no. bedroom house (c. 240 sq.m) building into the slope of the subject site with wastewater treatment system.
- 2.2. The wastewater treatment system proposed is referred to as the 'Ecoflo Coco Filter' packaged tertiary wastewater treatment plant, selected to respond to the relatively shallow bedrock level and to ensure that the footprint of the infiltration area can be accommodated within the site (as taken from the submitted Site Assessment Form).
- 2.3. An Aco channel is proposed to be fitted at the site entrance to prevent surface water discharging onto the public road. Aco channel to discharge to the people storm drain along the roadside boundary.
- 2.4. Water supply is proposed via a new private well and wastewater is proposed to be managed with a wastewater treatment system.

3.0 Planning Authority Decision

3.1. Decision

On the 17 April 2025 the planning authority recommended a grant of permission subject to 10 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial report:

- Further information sought requiring the submission of a storm/surface water report and letter confirming permission to connect to a local private network for foul and storm if relevant.
- In addition, an Ecological report was requested in line with the advice issue by An Taisce.

Report following receipt of further information:

- Notes receipt of the Storm Drainage Report and letter of consent for discharge on neighbouring lands.
- Sets out the contents of the submitted Ecological report and considers that the proposed development will not have a significant negative effect on any terrestrial or aquatic ecological habitat feature of importance subject to the mitigation measures set out in the report.
- The risks to safeguarding the integrity of the qualifying interests and conservation objectives of the Lough Swilly SAC and SPA are addressed in the submitted Natural Impact Statement (NIS) by the recommended mitigation measures, supervision and plans that will prioritise the avoidance of impacts in the first place.
- The need for environmental impact assessment is excluded at preliminary examination and a screening determination is not required.

3.2.2. Other Technical Reports

- Roads – same conditions as previous reference number 2461748
(Incompleted application please refer to section 4.0 of my report)
- Environmental Health Officer - Conditions recommended with respect to the proposed wastewater treatment system.

3.2.3. Conditions

Condition 2. (a) Prior to commencement of development, permanent visibility splays of 70 metres shall be provided in each direction to the nearside road edge at a point 5 metres back from road edge at location of the existing private laneway entrance. Visibility in the vertical plane shall be measured from a driver's eye- height of 1.05 metres and 2 metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision splays to be calculated and provided as set out in Figure 16.2, Chapter 16 of the County Donegal Development Plan 2024-2030.

(b) Area between old and new front boundaries shall be soiled to a height no higher than 100mm above the level of the adjacent carriageway and shall be seeded with grass.

(c) Full frontage or roadside drain (whichever is appropriate) shall be piped with concrete pipes of adequate size in accordance with details to be agreed with the Executive Engineer for the area (Telephone:074-9153900) unless otherwise agreed in writing with the Planning Authority.

(d) Entrance shall incorporate an acco channel or other similar drainage trap, together with suitable drainage pipework in order to prevent discharge of surface water onto public road. Said works shall be carried out prior to first occupation of the dwelling hereby permitted.

(e) No surface water from site shall be permitted to discharge to public road and applicant shall take steps to ensure that no public road water discharges onto site.

Reason: In the interest of traffic safety and to prevent flooding.

Condition 3. The junction of the private access road with the L-5326-0 road shall be realigned to provide a minimum junction radius of 3m at the location of the application site, unless otherwise agreed with the Planning Authority.

Reason: In the interests of traffic safety.

Condition 6. All site boundaries shall be planted with hedgerow of species native to the area and at least 10 no. semi-mature broadleaf trees shall be planted on site at even spacings and one metre from the rear site boundary within first planting season following commencement of development. The trees to be planted shall be a mix selected from the following list of species (unless otherwise agreed in writing with the Planning Authority):

Fearnog (Alder/*Alnus glutinosa*), Crann Creathach (Aspen/*Populus tremula*), Dair Ghallda (Pedunculate Oak/*Quercus robur*), Dair Ghaelach (Sessile Oak/*Quercus petraea*), Caorthann (Rowan/Mountain Ash (*Sorbus aucuparia*), Fionncholl (Whitebeam/*Sorbus spss*), Saileach (Willow/Sallows/ *Salix spss*), Leamhan Sleibhe (Wych Elm/*Ulmus Glabra*), Péine (Pine/*Pinus spss*). Any trees dying within subsequent three years shall be replaced.

Reason: To preserve the amenities of the area.

Condition 7. Potable water supply shall be from a private well in accordance with information submitted under question 20 of the application form, in support of the application for development. The private well shall be constructed so as to prevent contamination and thereafter tested and treated as necessary.

Reason: In the interests of orderly development and public health.

Condition 8. (a) All mitigation measures detailed in the Natura Impact Statement received on the 3rd of December 2024 and the Ecological Impact Assessment received on the 28th of March 2025, shall be carried out in full. (b) Site preparation and construction shall adhere to best practice and shall conform to the Inland Fisheries Ireland Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites (www.fisheriesireland.ie – section relating to Construction Stage).

Reason: In the interests of preserving the integrity of the Lough Swilly Special Area of Conservation / Special Protection Area.

Condition 9. (a) A wastewater treatment system (Independently certified by IAB, BSI or ISO EN) suitable for a population equivalent of 6 no. persons shall be installed, operated and maintained in strict accordance with the supplier's instructions and the

2021 Environmental Protection Agency Code of Practice, “Wastewater Treatment and Disposal Systems Serving Single Houses.”

(b) No part of the percolation area/polishing filter shall be within: • 10m of any dwelling • 3m of the boundary of the adjoining site • 4m of the nearest road boundary • 10m of the nearest stream or ditch • 3m of the nearest trees. • 5m of any surface water soakaway which if located on the site, shall be located down-gradient of the percolation area.

(c) Documentary evidence detailing a five-year maintenance contract between the applicant/owners and the suppliers of the wastewater treatment system shall be forwarded to the Planning Authority upon its installation.

(d) All parts of this condition shall be complied with in full prior to first occupation of the house hereby permitted.

Reason: In the interests of orderly development and public health

3.3. **Prescribed Bodies**

An Taisce – an Ecological Impact Assessment (EclA) would be an important exercise to be undertaken and they highlight seven elements that are important for inclusion within the EclA, namely Annex IV (Habitats Directive species of flora and fauna, other species of flora and fauna such as badger and white clawed crayfish that are protected under the Wildlife Acts and Flora Protection Order, areas recognised as being of importance for biodiversity and nature locally, other natural or seminatural habitats, birds in the wider countryside, Ireland red list plant species and the Ballynarry Long-established woodland area.

3.4. **Third Party Observations**

One third party submission received by Frank Murphy, the concerns raised are reflected in the grounds of appeal.

4.0 **Planning History**

Planning register reference 2461748 Incompleted application.

Planning register reference 23/51842 Planning permission was refused (July 2024) for the construction of a two-storey private dwelling house with wastewater treatment plant, a well and associated site works including landscaping.

1. It is a policy of the County Development Plan 2024-2030 (Under Policy TS-P-1) that proposals require compliance with technical standards associated with roads and transport as set out in Chapter 16 of the County Donegal Development Plan 2024-2030. Having regard to the submitted plans and absence of adequate consented vision splays onto the local road it is considered the vision lines do not adequately comply with the standards set out in Figure 16.1 and Table 16.3 of the aforementioned plan. Accordingly, to permit the proposed development would result in dangerous traffic cross-over movements from, and onto, the adjoining local road both during and post construction, would result in a dangerous intensification of traffic cross-over movements associated with the said junction, would by itself and precedent endanger public safety by reason of a traffic hazard, would be contrary to Policy TS-P-1 of the said plan and would thereby be contrary to the proper planning and sustainable development of the area.

NB: Applicant is advised that in relation to Further Information request Item No. 3 the applicant has submitted a revised plan with storm water details and layout of surface water proposals for the site prepared by Grand Oak Engineering Services. The applicant intended to discharge to local private networks for foul and storm. Please note that the applicant would normally be required to confirm permission to connect to this system with a letter confirming permission from the landowners who installed this drainage system.

Site on the northern corner of the junction of the local access road with the L-5326-0

Planning register reference 23/51158 Planning permission granted (January 2024) for the erection of a dwelling with wastewater treatment system and percolation area. Applicants Caoimhe & Ruairi Connolly.

Condition 2 and Condition 3 relates to works to provide a set back boundary and realigned junction with the L-5326-0.

Planning register reference 24/60800 Planning permission granted (August 2024) for change of house type to that previously permitted under 23/51158.

Conditions 2 and 3 attached as per planning register reference 23/51158.

5.0 Policy Context

5.1. County Donegal Development Plan 2024-2030

Urban Area - Map 6.3.1

Chapter 16 Technical Standards Vision Lines

Figure 16.2 Measurement for Visibility Splays, Chapter 16 of the County Donegal Development Plan 2024-2030

Chapter 18 Buncrana Area Plan - Section 18.10 Water and Wastewater

5.2. Buncrana Area Plan

The subject site is zoned Established Development 1 within the Buncrana Area Plan Land Use Zoning Map surrounded by High Scenic Amenity Zoning (Map 11.1).

Residential development is acceptable in principle in 'Established Development 1 zoning. Table 18.1 Buncrana Land Use Zoning Matrix.

The subject site is in close proximity to the Fort at Ned's point – Opportunity Site 1.

5.3. Natural Heritage Designations

Lough Swilly SAC (Site Code 002287) is approximately 5 metres from the subject site (the opposite side of the access roadway).

Lough Swilly Including Big Isle, Blanket Nook & Inch Lake pNHA (Site Code 000166) are approximately 0.12 km from the subject site.

The Lough Swilly SPA (Site Code 004075) is approximately 3.552 km south of the subject site.

6.0 EIA 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.

Separately, 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. The screening carried out for environmental impact assessment (Appendix 1 and Appendix 2), has addressed the characteristics of the proposed development, its location and the types and characteristics of potential impacts has also had regard to the mitigation measures proposed in respect of protecting water quality and limiting disturbance of species. On this basis I am satisfied that there is no potential for significant effects on water quality, flora and fauna or any other environmental factor, or any requirement, therefore, for environmental impact assessment. Impacts on European sites can be addressed under Appropriate Assessment, which I have addressed in Section 9.0 and Appendix 3 of my report.

7.0 The Appeal

7.1. Grounds of Appeal

One third party appeal has been made by Frank Murphy, owner of the neighbouring property.

- Planning was previously refused under planning register reference due to inadequate vision lines at the junction. Third party consent has not been demonstrated with respect to lands to the south of the junction.
- Concerns about discharge of wastewater into an open stream.

- Part of the proposed plan encroaches on the adjoining property, appellants lands.

7.2. Applicant Response

- Submits a detailed Site layout plan, Appendix 3 - Vision lines required southwards, to demonstrate the area of land across which the vision lines are required by Condition no. 2(a). The applicant is seeking to reach agreement with the third-party landowner and has attached a letter confirming same.
- No wastewater from the proposed development will be discharged into the open stream/open drain. Storm water report sets out that the new drainage network has incorporated best practice guidelines from the Sustainable Urban Drainage Systems manual and it is proposed to control discharge of storm and surface water only to the nearby open stream (open drain).
- Applicant disagrees with the appellant that the application site encroaches upon their lands. Consider that it is not necessary to address this specific objection which is a civil matter.

7.3. Planning Authority Response

- The issues raised in the appeal have been dealt with in the Executive Planner's report date 15 April 2025 which recommend a decision to grant permission.

7.4. Observations

- None.

8.0 Assessment

- 8.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s 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:

- Traffic safety/Vision Lines
- Surface water/ storm water management
- Legal and Procedural

8.2. Traffic safety/vision lines

- 8.2.1. As outlined in section 4.0 of my report planning permission was previously refused (July 2024), on this subject site, as it was considered that in the absence of adequate consented vision splays onto the local road. The reason for refusal set out that the vision lines do not adequately comply with the standards set out in Figure 16.1 and Table 16.3 of the development plan and would result in dangerous traffic cross-over movements from, and onto the adjoining local road.
- 8.2.2. In the interests of clarity, the relevant junction concerned is between the L-5326-0 and the unnamed access roadway into the cul-de-sac of established residential development. This junction is outside the application site boundary; however, I note the site layout plan includes the right of way which extends from this point to the subject site. Under planning permission 23/51158 for a new dwelling on the northern corner of the junction and subsequent change of house type planning register reference 24/60800 (see section 4.0 of my report), applicants Caoimhe and Ruairi Connolly, the planning authority attached conditions for a setback new boundary 5 metres from the centre line of the public road (L-5326-0) and the provision of a minimum junction radius of 6.5 m at the junction of the private access road with the L-5326-0. From my site visit I noted that construction had commenced on this corner site and I highlight to the Commission that Caoimhe Connolly confirms that consent is given to the applicant to carry out all required remedial works and maintenance thereafter to achieve said vision lines that cross their lands in accordance with the necessary technical standards at the entrance to the access road to the subject site.
- 8.2.3. In the subject appeal the appellant is concerned that permission was granted, subject to condition, when the reason for refusal has not been fully overcome, specifically that third party landowner consent has been given for only the northern

side of the junction (from Caoimhe Connolly as detailed above). In this respect I acknowledge the letter received from the landowner of lands north of the junction. The applicant in their appeal response confirm that they have commenced negotiations with the owner of the land, namely Mary Josephine Doherty, and are working to reach an agreement on this matter.

8.2.4. I highlight to the Commission that Condition 2 (a) prevents development commencing until permanent visibility splays of 70 metres are provided in each direction at a point 5 metres back from the road edge. I am of the opinion that this matter can be satisfactorily addressed by way of condition similar to that attached by the planning authority but, in addition, to require the applicant to submit letters of consent from the relevant landowners.

8.2.5. Separately I note Condition no. 3 requires realignment of the junction of the private access road with the L-5326-0. I consider that in the event the Commission is minded to grant permission that a revised Condition 2 as referred to above should also incorporate the junction radius modifications for the written agreement of the planning authority.

8.3. Surface water/storm water management

8.3.1. The appellant is concerned that wastewater has been permitted to discharge into what is referred to in the application as an open stream. There appears to be some confusion as to whether the channel running along the northern edge of the access roadway in front of the subject site is a stream or a trench to prevent flooding of the roadway. On my site visit I did hear water flowing through a channel further to the northwest of the subject site. At the subject site itself I did not see any standing water in what appeared as an open drain. I acknowledge the photographs submitted by the appellant of the open drain or trench along the roadside edge and subject site and would agree that they reflect the different characteristics I observed on site.

8.3.2. The submitted Storm Drainage Report refers to nearby open stream (open drain) and states that there is natural free drainage to the southwest with a series of open streams (open drains). The submitted EclA outlines that a 'drainage channel runs northwest along the southern boundary of the site, and discharges to an under-road drain, and subsequently an open drain that flows west through woodland toward the

coast. Terminating at sea, at Lough Swilly' (Figure 4.4 of submitted EclA illustrates Hydrological Pathway). I consider the information submitted adequately defines the characteristics of the hydrological pathways within the site and its surrounds.

- 8.3.3. The appellant is incorrect in their reference to wastewater discharging to the open stream/open drain and, as highlighted, by the applicant in their appeal response only surface water/storm water will post attenuation discharge to the channel/open drain. A site suitability assessment has been prepared by *Porter Consulting Engineers* and all foul water (wastewater) shall discharge via a wastewater effluent pump chamber to the tertiary treatment system with final discharge to ground by gravity fall via the offset infiltration system.
- 8.3.4. In conclusion on this point, I am of the opinion that the proposed new drainage network within the site and proposal to discharge surface water/storm water at greenfield rates to the existing open stream/ open drain is acceptable.

8.4. Legal and Procedural Issues

- 8.4.1. The appellant disputes the ownership of lands that form part of the proposed development which it is stated to encroach on their property. The appellant states that an objection to the registration of the said lands has been lodged with Tailte Éireann which is under review. No documentation has been provided as evidence of the objection. No folio details have been provided either. The applicant has identified themselves as owner on the submitted application form. As such the scope of my assessment on this point is limited.
- 8.4.2. I highlight that the determination of title is not a matter for the Commission. Any further legal dispute is considered a Civil matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

9.0 AA Screening and Appropriate Assessment

- 9.1. The proposed house, wastewater treatment system and well 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 Lough Swilly SAC [Site Code 002287] and Lough Swilly SPA [Site Code 004075]. 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.

Appropriate Assessment Conclusion: Integrity Test

- 9.3. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Lough Swilly SAC and Lough Swilly SPA in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U/ 177AE was required.
- 9.4. Following an examination, analysis and evaluation of the NIS, all associated material submitted and taking into account observations, I consider that adverse effects on site integrity of the Lough Swilly SAC and Lough Swilly 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.
 - The proposed development will not affect the attainment of conservation objectives for Lough Swilly SAC and Lough Swilly SPA or prevent or delay the restoration of favourable conservation condition for Otter.
 - Effectiveness of mitigation measures proposed.
 - Application of planning conditions in respect of an agreed CEMP with the planning authority.

10.0 Water Framework Directive

- 10.1. The development site falls within the Water Framework Directive (WFD) Catchment 39 Lough Swilly (GBNIIENW) and the Crana_SC_010 WFD sub-catchment. The site is located in the Lough Swilly groundwater body and has been assigned a status of 'Not at Risk' in the Water Framework Directive (WFD) ground waterbody approved risk. The groundwater status of this catchment has been assigned a 'Good' status in

the Water Framework Directive (WFD) groundwater monitoring programme (2016-2021).

- 10.2. The nearest watercourse in the EPA dataset is an unnamed first order stream (Strahler ordering) denoted by segment code 39_149 and is located c. 330m northwest of the subject site. The coastal waterbody Lough Swilly, and the transitional Crana Estuary occur in close proximity to the site.
- 10.3. The proposed development comprises the construction of a house, vehicular access, well 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

- 10.4. 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 should be granted, subject to conditions, for the reasons and considerations sets out below.

12.0 Reasons and Considerations

Having regard to the subject site's location within the Urban Area of Buncrana and within an established residential area zoned 'Established Development 1' in which residential development is acceptable in principle, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the designated 'High Scenic Amenity Area', would not be prejudicial to public health and would not endanger public safety by reason of a traffic hazard. It is considered that the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 28 day of March 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (i) The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

3. The mitigation measures contained in the submitted Ecological Impact Assessment (EclA) shall be implemented.

Reason: To protect the environment and in the interest of biodiversity.

4. A Construction and Environmental Management Plan (CEMP) including all relevant mitigation measures contained in the submitted NIS and the EclA shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection.

5. Prior to the commencement of development, the developer shall following consultation with the Local Roads Engineer and the planning authority:
 - a) Submit written details, plans and specifications, including letters of consent from the relevant landowners, demonstrating permanent visibility splays of 70 metres provided in each direction to the nearside road edge at a point five metres back from the road edge at the location of the existing private laneway entrance off the L-5326-0.
 - b) Submit revised drawings, having regard to Condition 5 (a), to provide a realigned junction with minimum radius of 3m at the junction of the private access road with the L-5326-0.

No works shall be carried out on site until the plans and particulars listed (a-b) above has been submitted to and approval to proceed is agreed in writing with the planning authority.

Reason: In the interest of traffic safety.

6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with,

the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than [1:500] showing –
 - (i) Existing trees, hedgerows and shrubs specifying which are proposed for retention as features of the site landscaping.
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period.
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as Alder, Aspen, Pedunculate Oak, Sessile Oak, Mountain Ash, Whitebeam, Willow, Wych Elm and Pine.
 - (iv) Details of screen planting
 - (v) Details of roadside/street planting.
 - (vi) Hard landscaping works, specifying surfacing materials, and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

- 7. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent

≤ 10) ” – Environmental Protection Agency, 2021.

(b) Treated effluent from the wastewater treatment system shall be discharged to a polishing filter which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.

8. Drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the relevant Section of the Council for such works and services. Prior to the commencement of development, the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon completion of the development a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

9. Potable water supply shall be from a private well in accordance with information submitted in support of the application for development. The

private well shall be constructed so as to prevent contamination and thereafter tested and treated as necessary.

Reason: In the interests of orderly development and public health.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development

Reason: In the interests of visual amenity.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Case Reference	322513-25
Proposed Development Summary	Erection of a two-storey dwelling with wastewater treatment system and well.
Development Address	Porthaw Glen, Tullyarvan, Buncrana, Lifford, Co. Donegal.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (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)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, no further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	N/A
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
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?	
☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	N/A

development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	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 ☐	
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	322513-25
Proposed Development Summary	Erection of a two-storey dwelling with wastewater treatment system and well.
Development Address	Porthaw Glen, Tullyarvan, Buncrana, Lifford, Co. Donegal.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (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).	The proposed development is for the construction of a two-storey detached dwelling house with wastewater treatment system and polishing filter, a well is proposed off site in adjoining lands (letter of Bore Hole consent included with the application documentation). 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. 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.
Location of development (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).	The subject site is located within the area designated as High Scenic Amenity. Lough Swilly SAC (Site Code 002287) is approximately 5 metres from the subject site (the opposite side of the access roadway). The Lough Swilly SPA (Site Code 004075) and Lough Swilly Including Big Isle, Blanket Nook & Inch Lake pNHA (Site Code 000166) are approximately 0.12 km from the subject site. Ned's Point, a former defence battery, dated 1812 and altered c. 1897 is identified as regionally important on the NIAH is within 05km from the subject site. It is considered that, having regard to the limited nature and scale of the development and the existing tree cover that provides a landscape buffer, there is no real

	likelihood of significant effect on other significant environmental sensitivities in the area.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	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. There is no real likelihood of significant cumulative considerations having regard to other existing and/or permitted projects in the adjoining area. 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. This preliminary examination carried out for environmental impact assessment, has addressed the characteristics of the proposed development, its location and the types and characteristics of potential impacts has also had regard to the mitigation measures proposed in respect of protecting water quality and limiting disturbance of species. On this basis I am satisfied that there is no potential for significant effects on water quality, flora and fauna or any other environmental factor, or any requirement, therefore, for environmental impact assessment. Impacts on European sites can be addressed under Appropriate Assessment, which I have addressed in Section 9.0 and Appendix 3 of my report.
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
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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 two-storey dwelling with a wastewater treatment system and well 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 *Britton Environmental Consultancy* (dated May 2024) 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 two-storey house, new wastewater treatment systems and all associated site works including new vehicular driveway on a greenfield site, habitats classified in the submitted NIS Oak-ash-hazel woodland (WN2) under the Fossit 2000 Guide. This habitat is not listed as an annexed habitat under the EU Habitats Directive.

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

Third party submission, by Frank Murphy, raised concerns about the potential for water pollution arising from the proposed wastewater treatment system discharging to the ground within proximity of the SAC.

An Taisce have submitted an observation with respect to recommending that an Ecological Impact Assessment (EcIA) would be an important exercise and highlight amongst seven elements that are important for inclusion within the EcIA, that the EcIA should include an assessment of the Annex IV (Habitats Directive species of flora and fauna.

European Sites

Table 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 8 possible European sites proximate to the subject site. From this wide selection two European sites are identified as being within a potential zone of influence of the

proposed development and identified through the S-P-R, namely Lough Swilly SAC and Lough Swilly SPA.

Lough Swilly SAC

This large site, situated in the northern part of Co. Donegal, comprises the inner part of Lough Swilly. It extends from below Letterkenny to just north of Buncrana. Lough Swilly is a long sea lough, cutting through a variety of metamorphic rocks on the west side of Inishowen. The main rivers flowing into the site are the Swilly, Lennan and Crana. At low tide, extensive sand and mudflats are exposed, especially at the mouths of the Swilly and Lennan rivers. The site is estuarine in character, with shallow water and intertidal sand and mudflats being the dominant habitats (As taken from the Site Synopsis NPWS 2024).

Lough Swilly SPA

Lough Swilly is a long sea inlet cut through a variety of metamorphic rocks, situated on the west side of the Inishowen Peninsula in north Co. Donegal. The SPA comprises the inner part of Lough Swilly from just east of Letterkenny northwards to Killygarvan (c. 2 km north of Rathmullan) on the west side and to c. 2 km south of Buncrana on the east side; it includes the adjacent Inch Lough. Also forming part of the site is a series of improved pasture and arable fields on the south side of Lough Swilly between Farsetmore and Inch Levels – these are of importance to geese and swans. It includes sections of the estuaries of the River Swilly, the River Leannan and the Isle Burn and the predominant habitat is a series of extensive sand and mud flats which are exposed at low tide - both estuaries and sand/mud flats are listed on Annex I of the E.U. Habitats Directive (as taken from the Site Synopsis NPWS 2014).

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

European Site	Qualifying Interests	Distance	Connections
Lough Swilly SAC [002287] https://www.npws.ie/protected-sites/sac/002287	Estuaries [1130] Coastal lagoons [1150] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Molinia meadows on calcareous,	5m	Y Indirect impacts (hydrological pathways) on the Qis within the SAC through water pollution via run

	peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Phocoena phocoena (Harbour Porpoise) [1351] Lutra lutra (Otter) [1355]		off of discharge. Disturbance to otters.
Lough Swilly SPA [004075] https://www.npws.ie/protected-sites/spa/004075	Great Crested Grebe (Podiceps cristatus) [A005] Grey Heron (Ardea cinerea) [A028] Whooper Swan (Cygnus cygnus) [A038] Greylag Goose (Anser anser) [A043] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Mallard (Anas platyrhynchos) [A053] Scaup (Aythya marila) [A062] Goldeneye (Bucephala clangula) [A067] Red-breasted Merganser (Mergus serrator) [A069] Coot (Fulica atra) [A125] Oystercatcher (Haematopus ostralegus) [A130]	3.5km	Y Indirect impacts (hydrological pathways) on the QIs within this SPA may occur through water pollution via run off of discharge. Disturbance to wintering waterfowl.

	Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Greenshank (<i>Tringa nebularia</i>) [A164] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Common Tern (<i>Sterna hirundo</i>) [A193] Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] Wigeon (<i>Mareca penelope</i>) [A855] Shoveler (<i>Spatula clypeata</i>) [A857] Sandwich Tern (<i>Thalasseus sandvicensis</i>) [A863] Wetland and Waterbirds [A999]		
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Table 1.1

As per the submitted NIS an ecological survey undertaken found that the site does not support plant communities that correspond with any qualifying habitat for the SAC. No invasive species has been recorded as per site walk over within or outside the development site surrounding areas.

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 SAC or SPA as it relates to Lough Swilly.

However, due to the proximity and the hydrological links impacts generated by the construction and operation of the proposed house require consideration.

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

Site Name	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Lough Swilly SAC [002287]	Indirect hydrological pathway to SAC Release of silt and sediment during site works, release of construction related compounds including hydrocarbons to surface water. Increase human disturbance at this site, particularly during construction phase. Water pollution via run off of discharge	Potential water pollution associated with spillages of hydrocarbons and/or other chemicals during construction phase. Potential spread of invasive species associated with ground disturbance activities during the construction phase. Potential disturbance to otter, a QI of the SAC, as a result of increased noise, additional lighting and increased human activity at both construction and post construction phases.
Lough Swilly SPA [004075]	As above.	Disturbance during construction. A decline in water quality would undermine the conservation objectives set for water quality targets and to prey availability.
	Likelihood of significant effects from proposed development (alone): Yes	
	If No, is there a likelihood of significant effects occurring in combination with other plans or projects?	

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

Based on the information provided in the screening report 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 significant effects on the Lough Swilly SAC and Lough Swilly SPA.

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 'Potential in Combination Affects' of the NIS.

I concur with the applicant's 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 and disturbance on qualifying interest habitats and species.

Screening determination**Finding of likely significant effects**

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 Lough Swilly SPA 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 Lough Swilly SAC and Lough Swilly 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 *Britton Environmental Consultancy*
- Submissions made by An Taisce.

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

Submissions/observations

Third party submission, by Frank Murphy, raised concerns about the potential for water pollution arising from the proposed wastewater treatment system discharging to the ground within proximity of the SAC.

An Taisce have submitted an observation with respect to recommending that an Ecological Impact Assessment (EclA) would be an important exercise and highlight amongst seven elements that are important for inclusion within the EclA, that the EclA should include an assessment of the Annex IV (Habitats Directive species of flora and fauna.

European sites

Lough Swilly SAC [002287]

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

- (i) **Water quality degradation (construction and operation)**
- (ii) **Disturbance**

See table 4 of the NIS

Qualifying Interest features likely to be affected	Conservation Objectives Targets and Attributes	Potential adverse effects	Mitigation measures (See Table 4 of the submitted NIS)
Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	To restore the favourable conservation condition of Old oak woodland with Ilex and Blechnum in Lough Swilly SAC.	Unauthorised dumping of site clearance materials could degrade habitat quality on designated sites and affect Annex 1 habitats.	Site Management (CEMP).

	Habitat area stable or increasing Ballynarry wood – 15.61ha.		
Estuaries [1130]	To maintain the favourable conservation condition of Estuaries in Lough Swilly SAC. Habitat area: The permanent habitat area is stable or increasing, subject to natural processes. Community distribution: The following communities should be conserved in a natural condition: Fine sand community complex; Intertidal mixed sediment with polychaetes; Subtidal mixed sediment with polychaetes and bivalves; Muddy fine sand with <i>Thyasira flexuosa</i>; Mud community complex and <i>Ostrea edulis</i> dominated community.	Site run-off (including physical disturbance of soil, surface water and foul water run-off) resulting in sediment entering the SAC complex with associated changing in water quality, changes in pH levels and nutrient enrichment could cause a decline in water quality via a decrease in oxygen levels and water clarity.	Site management throughout the construction of the development to prevent polluted /effluent run-off. Areas will be clearly delineated by fencing or other measures. All works to conform to the Inland Fisheries Ireland 'Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites.' Surface water run-off will be treated via serviced sediment and oil interceptor traps prior to discharge into any stream/drainage channel that flows near or into the SAC. All measures to protect the surrounding trees will be written into the construction specifications and must be provided

			in writing from the contractor. Each subcontractor must be made aware of the barriers, limitations and specified work zones.
Coastal lagoons*[1150]	To restore the favourable conservation condition of Lagoons in Lough Swilly SAC. Water quality	Site run-off (including physical disturbance of soil, surface water and foul water run-off) resulting in sediment entering the SAC complex with associated changing in water quality, changes in ph levels and nutrient enrichment could cause a decline in water quality via a decrease in oxygen levels and water clarity.	Site management throughout the construction of the development to prevent polluted /effluent run-off. Areas will be clearly delineated by fencing or other measures. All works to conform to the Inland Fisheries Ireland 'Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites.' Surface water run-off will be treated via serviced sediment and oil interceptor traps prior to discharge into any stream/drainage channel that flows near or into the SAC. All measures to protect the surrounding trees will be written into the construction

			specifications and must be provided in writing from the contractor. Each subcontractor must be made aware of the barriers, limitations and specified work zones.
Atlantic salt Meadows [1330]	To restore the favourable conservation condition of Atlantic salt meadows in Lough Swilly SAC. Water quality	Site run-off (including physical disturbance of soil, surface water and foul water run-off) resulting in sediment entering the SAC complex with associated changing in water quality, changes in pH levels and nutrient enrichment could cause a decline in water quality via a decrease in oxygen levels and water clarity.	Site management throughout the construction of the development to prevent polluted /effluent run-off. Areas will be clearly delineated by fencing or other measures. All works to conform to the Inland Fisheries Ireland 'Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites.' Surface water run-off will be treated via serviced sediment and oil interceptor traps prior to discharge into any stream/drainage channel that flows near or into the SAC. All measures to protect the surrounding trees

			will be written into the construction specifications and must be provided in writing from the contractor. Each subcontractor must be made aware of the specified work zones.
Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]	Not at risk	Rationale for exclusion: Outside the zone of influence (Inch levels).	
Phocoena phocoena (Harbour Porpoise) [1351]	Not at risk Barriers and disturbance	Rationale for exclusion: Outside the zone of influence/no pathway.	
Lutra lutra Otter [1355]	To restore the favourable conservation condition of Otter in Lough Swilly SAC. Distribution: No significant decline. Fish Biomass available.	Site run-off (including physical disturbance of soil, surface water and foul water run-off) resulting in sediment entering the SAC complex with associated changing in water quality, changes in pH levels and nutrient enrichment could cause a decline in water quality via a decrease in oxygen levels and water clarity. Disturbance during site clearance via mechanical activities may cause disruption to foraging otters	Site management throughout the construction of the development to prevent polluted /effluent run-off. Areas will be clearly delineated by fencing or other measures All works to conform to The Inland Fisheries Ireland 'Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites'. All outdoor normal exterior lighting shall be no more

		in surrounding areas.	than 10 watts to reduce disturbance.
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Lough Swilly SPA [004075]

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

- (i) Water quality degradation (construction and operation)
- (ii) Disturbance

See table 4 of the NIS

Qualifying Interest features likely to be affected	Conservation Objectives Targets and Attributes	Potential adverse effects	Mitigation measures (See Table 4 of the submitted NIS)
Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Grey Heron (<i>Ardea cinerea</i>) [A028] Whooper Swan (<i>Cygnus cygnus</i>) [A038] Greylag Goose (<i>Anser anser</i>) [A043] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Mallard (<i>Anas platyrhynchos</i>) [A053] Scaup (<i>Aythya marila</i>) [A062]	To maintain the favourable conservation condition of [<i>the listed Q/Is</i>] in Lough Swilly SPA. To maintain the favourable conservation condition of the wetland habitat in Lough Swilly SPA as a resource for the regularly occurring migratory waterbirds that utilise it. Forage spatial distribution, extent, abundance and availability.	Site run-off (including physical disturbance of soil, surface water and foul water run-off) resulting in sediment entering the SAC complex with associated changing in water quality, changes in pH levels and nutrient enrichment could cause a decline in water quality via a decrease in oxygen levels and water clarity. Disturbance during site clearance via mechanical activities may cause disruption to foraging otters in surrounding areas.	All works to conform to The Inland Fisheries Ireland 'Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites'. All outdoor normal exterior lighting shall be no more than 10 watts to reduce disturbance.

Goldeneye (Bucephala clangula) [A067]			
Red-breasted Merganser (Mergus serrator) [A069]			
Coot (Fulica atra) [A125]			
Oystercatcher (Haematopus ostralegus) [A130]			
Knot (Calidris canutus) [A143]			
Dunlin (Calidris alpina) [A149]			
Curlew (Numenius arquata) [A160]			
Redshank (Tringa totanus) [A162]			
Greenshank (Tringa nebularia) [A164]			
Black-headed Gull (Chroicocephalus ridibundus) [A179]			
Common Gull (Larus canus) [A182]			
Common Tern (Sterna hirundo) [A193]			
Greenland White- fronted Goose (Anser albifrons flavirostris) [A395]			
Wigeon (Mareca penelope) [A855]			
Shoveler (Spatula clypeata) [A857]			

Sandwich Tern (Thalasseus sandvicensis) [A863]			
Wetland and Waterbirds [A999]			

The above tables are based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.

In particular, I note those relating to the marine communities to maintain the natural circulation of sediments and organic matters without any physical obstructions. I note that mitigation measures contained in Table 4 of the NIS in relation to indirect effect on water quality of the marine communities are also applicable for the water quality targets and attributes for the SPA. The NIS highlights that Lough Swilly SAC is home to a large population of otters, the NIS states that there are no significant impacts such as direct disturbance or damage to any potential habitats these species may occupy (Please refer to Figure 5 of the submitted NIS) and that the mitigation measures outlined in Table 4 of the NIS would ensure the conservation status of the otter population will remain unchanged.

Assessment of issues that could give rise to adverse effects view of conservation objectives

- (i) Water quality degradation
Water pollution via suspended sediments into ground and surface waters connected to the SAC and SPA. This may give rise to an adverse effect on the QIs including Otters. Surface water pollution reaching designated sites via waterbodies, also in combination affects.

Mitigation measures and conditions

- Construction & Environmental Management Plan (CEMP)
- Protection fences erected outside the drip-line or canopy of each tree in accordance with BS 5837 (2012) Trees in relation to construction.
- Monitoring by a suitably qualified ecologist.
- Works shall not take place during heavy or prolonged rainfall.
- All works must confirm to The Inland Fisheries Ireland 'Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites.

- (ii) Disturbance of mobile species

Loss of habitat for Otters and damage to adjacent woodland habitats. The woodlands adjacent to the site make up the Lough Swilly SAC complex. Dumping of materials on designated sites during the site clearance stage. Disturbance to local wildlife.

Mitigation measures and conditions

- All outdoor normal exterior lighting shall be no more than 10 watts to reduce disturbance.

In-combination effects

I am satisfied that in-combination effects has been assessed adequately in the NIS. The applicant has demonstrated satisfactorily that no significant residual effects will remain post the application of mitigation measures and there is therefore no potential for in-combination effects.

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.

Based on the information provided, I am satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water. Monitoring measures are also proposed to ensure compliance and effective management of measures. I am satisfied that the mitigation measures proposed to prevent adverse effects have been assessed as effective and can be implemented.

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 of the Conservation objectives of the Lough Swilly SAC and Lough 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 Lough Swilly SPA 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, I consider that adverse effects on site integrity of the Lough Swilly SAC and Lough Swilly 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.
- The proposed development will not affect the attainment of conservation objectives for Lough Swilly SAC and Lough Swilly SPA or prevent or delay the restoration of favourable conservation condition for Otter.
- Effectiveness of mitigation measures proposed.
- Application of planning condition in respect of an agreed CEMP with the planning authority.