



An
Coimisiún
Pleanála

Inspector's Report ABP-322521-25

Development	Retention of 9 no. polytunnels, 1 no. rainwater storage tank, 1 no. portacabin and 2 no. containers etc.
Location	Killult, Falcarragh, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	24/62059
Applicant(s)	Údarás na Gaeltachta
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Seamus O'Domhnaill
Observer(s)	None
Date of Site Inspection	8 th and 29 th August 2025
Inspector	Philip Maguire

Contents

1.0 Introduction	4
2.0 Site Location and Description	4
3.0 Proposed Development	4
4.0 Planning Authority Decision	5
4.1. Decision	5
4.2. Planning Authority Reports	5
4.3. Prescribed Bodies	8
4.4. Third Party Observations	8
5.0 Planning History.....	8
6.0 Policy Context.....	10
6.1. Local Planning Policy	10
6.2. Regional Planning Policy	12
6.3. National Planning Policy and Guidelines	13
6.4. Other National Policy and Guidance	13
6.5. Other Guidance.....	14
6.6. Natural Heritage Designations	15
6.7. EIA Screening	15
6.8. WFD Screening.....	15
7.0 The Appeal	16
7.1. Grounds of Appeal	16
7.2. Applicant Response	17
7.3. Planning Authority Response.....	21
8.0 Planning Assessment	21

8.1. Preliminary Points	21
8.2. Land Use and Development Principle	22
8.3. Public Health (Natural Heritage)	24
8.4. Traffic and Transport.....	27
8.5. Procedural Matters.....	28
9.0 AA Screening.....	30
9.1. Introduction	30
9.2. Stage 1 (Screening).....	30
10.0 Recommendation	31
11.0 Reasons and Considerations.....	31
12.0 Conditions	32
Appendix 1 (EIA Screening)	34
Appendix 2 (WFD Screening).....	36
Appendix 3 (AA Screening).....	40

1.0 Introduction

- 1.1. This case relates to an appeal by Seamus O'Domhnaill under the provisions of Section 37 of the Planning and Development Act 2000, as amended ('the Act'), following a grant of permission by Donegal County Council in accordance with S. 34 of the Act.
- 1.2. This Inspector's Report (IR) and recommendation is made pursuant to Section 146(2) of the Act. The Commission is required to consider both before determining the case.

2.0 Site Location and Description

- 2.1. Situated in the townland of Killult, the appeal site is located to the eastern side of Ballyness Bay on the north-west coast of Co. Donegal, some 1.5km west of Falcarragh. The site is accessed via a narrow, single-track road (L5093), northwest of its junction with the N56 national secondary road. Killult and the adjacent townland of Glebe form a peninsula to the southeast of the bay. The surrounding area is characterised by agriculture and horticulture with a ribbon of houses to the west.
- 2.2. The appeal site has a stated area of 0.8 hectares. It is roughly rectangular shaped, mostly flat and located centrally within a larger landholding outlined in blue on the submitted drawings. The site boundaries include hedgerow, where defined, and the roadside boundary of the landholding includes screen planting and security fencing.
- 2.3. The site consists of nine polytunnels and other structures associated with the existing horticultural use, including offices, a shed, walled enclosures and a rainwater tank. The ground level associated with the polytunnels is noticeably below that of the offices. The main office building has render and roof slate finishes; the other is a portacabin.
- 2.4. There is a large glasshouse to the southwest of the site and separate reservoirs to the northeast, on lands outlined in blue. The latter are located in the townland of Glebe. Other lands on the holding, to the northwest, are under grass, having been left fallow. The entire landholding is currently operated by Cill Ulta as part of a social enterprise.

3.0 Proposed Development

- 3.1. Planning permission is sought to retain 9 no. polytunnels and ancillary works.
- 3.2. The proposed development is described in the statutory notices as:

The development for which retention is sought, as facilitate and support the existing agricultural / horticultural use of the lands, comprises of the following: 9 no. polytunnels (combined floor area of 1,818 sqm); 1 no. rainwater storage tank (21 sqm); 1 no. portacabin (26 sqm); 2 no. containers (28 sqm); blockwork wall and semi-enclosed area (ca. 36 sqm) adjacent to packing shed; and minor elevational changes to existing office building comprising 2 no. additional windows to second storey.

3.3. I note that the statutory notices have been published in Irish and English.

3.4. In addition to the relevant maps and drawings, the application documents include:

- Planning Statement (The Planning Partnership, December 2024)
- Planning / Ecological Statement (The Planning Partnership, Dec. 2024)
- Traffic Statement (KH Chartered Engineers, November 2024)
- Surface Water Statement (CHH Consulting Engineers, November 2024)

3.5. The following was also submitted in response to a Further Information request:

- Further Information Response (The Planning Partnership, March 2025)
- Wastewater Report (Alvin Morrow, March 2025)

4.0 Planning Authority Decision

4.1. Decision

4.1.1. Permission was granted on 17th April 2025, subject to 5 no. conditions.

4.1.2. The conditions are standard to the nature of the proposal, but the following are of note:

Condition 2 – requires a monthly inspection and 6-monthly emptying of WwTS.

Condition 3 – permission for the storage containers limited to a period of 2 years.

4.2. Planning Authority Reports

4.2.1. The Planner's Report (11/02/25) can be summarised as follows:

Principle of Development

- Notes the provisions of policy ED-P-8 having regard to the location of the site within the Gaeltacht and the owner of the lands i.e., Údarás na Gaeltachta.

- Notes the long-standing horticultural enterprise at the site, currently operated by Lárionad Acmhainní Nádúrtha Ctr, a non-profit organisation with charitable status.
- States that the facility also involves horticultural research and training schemes and notes the equivalent of 12.5 full time employees.
- Hours of operation are identified as 8am-5pm Monday to Friday.
- Considers the principle of the proposal, namely the expansion of an existing economic development in the countryside, acceptable in terms of policy ED-P-7.

Siting and Design

- Not considered to give rise to any adverse impacts on the Especially High Scenic Amenity/High Scenic Amenity designation of the area.
- States that the two storage containers on the site are not ideal from a visual amenity perspective but considers it reasonable to grant a temporary consent, by condition, in order for alternative storage solutions to be found.

Residential Amenity

- No issues arise in relation to loss of privacy, overlooking or residential amenity.

Access

- Considers that the proposal raises no issues regarding the operational capacity of the adjacent local road nor the adjoining N56.
- Recommends further information in relation to on-site parking arrangements.

Public Health

- States that the proposal does not alter the existing wastewater regime.
- Notes the new WwTS proposed under PA ref. 22/51751.
- Recommends further information in relation to the existing WwTS.
- Notes that surface water discharges to a drain along the eastern site boundary.
- Also notes the rainwater harvesting network, which is used for irrigation purposes.

Appropriate Assessment (AA)

- Concludes that AA is not required.

- States that AA can be excluded on the basis of objective scientific information that the proposed development individually or in combination with other plans/projects will have a significant effect on Natura 2000 sites.

Environmental Impact Assessment (EIA)

- Considers there is no real likelihood of significant effects on the environment and screens out the need for EIA at preliminary examination stage.

Development Contribution

- Notes the applicable charge as per the DCS (attached as Condition 5).

Archaeology

- Notes the proximity to two monuments but raises no concerns.

Flooding

- Considers that the development raises no significant flooding concerns having regard to the nature of the use (polytunnels) and the fact that only a small part of the site is within the flood zones.

Recommendation

- Recommends further information in relation to parking and wastewater treatment.

4.2.2. The Planner's Report (10/04/25) can be summarised as follows:

Parking

- Notes the revised site layout illustrating 15 no. car parking spaces and a swept path analysis of the parking areas.
- Considers the existing parking arrangements acceptable.

Wastewater Treatment

- Notes the submitted report which states that the septic tank is in good working condition and of acceptable capacity, including during the summer peak, with no signs of ponding or odours in respect of the percolation area.
- Considers that the report recommendations, namely monthly inspections and bi-annual emptying, can be conditioned.

Recommendation

- Having regard to the to the nature and scale of the development etc., it considers that the proposal would not injure the amenities of the area, would not be prejudicial to public health and would not endanger public safety by reason of a traffic hazard.
- Recommends that permission be granted subject to conditions.

4.2.3. Other Technical Reports

- None.

4.3. Prescribed Bodies

- None.

4.4. Third Party Observations

- 4.4.1. A single third-party observation was received from Seamus O'Domhnaill.
- 4.4.2. The issues raised are similar to the grounds of appeal (see section 7.1 below).
- 4.4.3. I note that the Planner's Report(s) outlines a response to each of the issues raised.

5.0 Planning History

5.1. Appeal Site

- 5.1.1. PA ref. 22/51751 – in May 2023, the planning authority confirmed the withdrawal of a planning application seeking to retain a change of use of first floor from store to office accommodation; portacabin/office accommodation; storage containers; 11 no. polytunnels; and a water harvesting system, in addition to permission for an extension to the main office/workshop building; a new research tunnel; a multipurpose garden room; and the decommissioning of an existing septic tank system and installation of a new septic tank with reed bed and tertiary wetland system and associated site works.
- 5.1.2. PA ref. 92/331 – in October 1992, the planning authority granted permission for 5 no. mushroom houses, a service building and a boiler house. Condition 2 required the external finishes of the service building to consist of white walls and blue/black roof.

5.2. Surrounding Area

Killult, Falcarragh, Co. Donegal

- 5.2.1. PA ref. 23/51328 – in July 2024, the planning authority granted permission for a replacement dwelling, including decommissioning of the septic tank and installation of a new WwTS. An NIS was submitted and Appropriate Assessment (AA) carried out.

Glebe, Falcarragh, Co. Donegal

- 5.2.2. PA ref. 18/51881 – in February 2020, the planning authority granted permission for a house extension and replacement WwTS. An NIS was submitted and AA carried out.

5.3. Other Relevant History

Moville, Co. Donegal

- 5.3.1. PA ref. 23/51261 – in April 2025, the decision of the planning authority was overturned on appeal and permission refused for a slatted farm shed (ABP-320625-24). An Bord Pleanála stated that the development for which planning permission was sought differed materially from the characteristics of the appeal site and the statutory notice, in that works had already been carried out on the site. In this regard, the Board considered it inappropriate to grant permission in circumstances where the statutory description of the proposal was inconsistent with the existing status of the subject site.

Ballyvaughan, Co. Clare

- 5.3.2. PA ref. 24/60456 – in March 2025, the decision of the planning authority was upheld and permission granted for retention of a polytunnel (ABP-321375-24). Having regard to the nature of the development proposed to be retained, the scale of the development, the pattern of development in the area, and the Development Plan policies etc., An Bord Pleanála considered that the development proposed to be retained would not seriously injure the amenities of the area/of property in the vicinity.

Bunnyconnellan, Co. Mayo

- 5.3.3. PA ref. 19/51– in January 2020, the decision of the planning authority was upheld and permission granted for retention of a polytunnel (ABP-305181-19). Having regard to the horticultural character of the proposed development, its siting in a former walled garden and its modest scale and setting in a rural area, An Bord Pleanála considered

that the proposal would not be visually obtrusive, would not seriously injure the residential amenity of the area and would comply with the provisions of the Plan etc.

Glenealy, Co. Wicklow

- 5.3.4. PA ref. 18/847 – in August 2019, the decision of the planning authority was upheld and permission granted for 5 no. polytunnels (ABP-303566-19). Having regard to the nature and scale of the proposal, the established nature of the subject agri-business on agricultural lands, and the pattern of development in the vicinity, An Bord Pleanála considered that the proposal would have an acceptable visual impact in terms of its agricultural use and context, would not seriously injure the amenities of residential property in the vicinity, would be acceptable in terms of traffic safety and convenience.

6.0 Policy Context

6.1. Local Planning Policy

County Donegal Development Plan 2024-2030

- 6.1.1. The current Development Plan came into effect on 26th June 2024. The Plan was subject to a draft Ministerial Direction in July 2024 and is pending a final decision by the Minister following public consultation and OPR recommendations (Sept. 2024). The planning authority decision was made under the provisions of this current Plan.
- 6.1.2. I also note that the pre-draft public consultation report on proposed Variation No. 1 of the Plan was published in May 2025, the provisions of which do not affect the site.
- 6.1.3. Relevant policies and objectives are set out in chapters 7 (Economic Development), 11 (Heritage etc.), 12 (Community), 13 (An Ghaeltacht) and 16 (Technical Standards).
- 6.1.4. The following sections are relevant to the proposed development:
- 7.4.1 – Aligning Economic Development and Job Creation with the Core Strategy
 - 7.4.7 – Proactive and Supportive Business Culture
 - 11.1 – Biodiversity
 - 11.2 – Landscape
 - 13.5 – Challenges and Opportunities for the Donegal Gaeltacht

6.1.5. Summary of policies and objectives relevant to the appeal:

- ED-O-3 Seeks to support appropriately scaled and located rural economic developments where they are functionally related to the countryside.
- ED-P-7 Seeks to consider proposals for the expansion or re-development of an existing economic development in the countryside provided the scale and nature of the proposal will contribute positively to the long-term sustainability of the existing enterprise etc. and non-qualifying proposals will only be permitted in exceptional circumstances where it can be demonstrated that they would provide for consolidation and/or remediation of the existing facilities etc.
- ED-P-8 Seeks to support Gaeltacht-based economic opportunities on lands within the ownership of, or supported by, Údarás na Gaeltachta etc.
- ED-P-9 Sets out criteria (a) to (n) relating to economic development. The following are noted:
- (a) It is compatible with surrounding land uses existing or approved;
 - (b) It would not be detrimental to the character of any area designated as being of Especially High Scenic Amenity (EHSA);
 - (d) There is existing or programmed capacity in the effluent disposal or suitable developer-led improvements can be identified and delivered;
 - (e) The existing road network can safely handle any extra vehicular traffic generated by the proposal or suitable developer-led improvements are identified and can be delivered;
 - (f) Adequate access, parking, manoeuvring and servicing areas are provided in line with the development and technical standards;
 - (i) It does not adversely affect important features of the built heritage or natural heritage including Natura 2000 sites;
 - (j) It is not located in an area at flood risk and/or will not cause or exacerbate flooding;

- (l) Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view.

- BIO-P-1 Requires all developments to comply with the requirements of the EU Habitats Directive and EU Bird Directive etc.
- L-P-1 Seek to protect areas identified as 'Especially High Scenic Amenity'. Within these areas, only developments of strategic importance, or those provided for by policy elsewhere in the Plan may be considered.
- L-P-2 Seek to protect areas identified as 'High Scenic Amenity' etc. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered etc.
- GAE-P-4 Supports the principle of the following Irish language-related developments, including (c) economic / enterprise development proposals including those in existing Údarás Na Gaeltachta sites etc.
- TS-P-1 Requires compliance with the technical standards outlined in the Plan.

6.2. Regional Planning Policy

Regional Spatial and Economic Strategy (RSES)

- 6.2.1. The Northern and Western Regional Assembly (NWRA) Regional Spatial and Economic Strategy 2020-2032 (NWRA, 2020) sets the regional policy context. Section 3.5 relates to smaller towns, villages and rural areas in the NWRA area and Section 4.4 relates to sectors and clusters, including the agri-food and bioeconomy sectors.
- 6.2.2. In this regard, I note that Regional Policy Objective (RPO) 3.12 places an emphasis on the impact on the community of language and the maintenance and development of its socialisation networks in Gaeltacht areas. RPO 4.23 seeks to protect and stimulate gastronomy as part of cultural heritage, in order to create a stronger region and RPO 4.24 seeks to support the growth of the region's agri-food industry, including the expansion of the sector where it has already been established in rural areas.

6.3. National Planning Policy and Guidelines

National Planning Framework (NPF)

- 6.3.1. Project Ireland 2040, the National Planning Framework *First Revision* (DHLGH, April 2025), sets the national planning policy context. National Strategic Outcome (NSO) 3 seeks to strengthen rural economies and communities, whilst NSO 9 advocates for the sustainable management of environmental resources through conservation etc.
- 6.3.2. In this regard, National Policy Objective (NPO) 30 seeks to facilitate the development of the rural economy, in a manner consistent with the national climate objective, through supporting a sustainable and economically efficient agri-food sector, while at the same time noting the importance of maintaining and protecting biodiversity etc.; NPO 32 seeks to enhance rural competitiveness by supporting innovation in rural economic development and enterprise through the diversification of the rural economy.

Development Management Guidelines

- 6.3.3. The Development Management Guidelines (DEHLG, 2007) are intended to promote best practice at every stage of the development management process. Section 7.3 sets out the basic criteria in deciding whether or not to impose a planning condition. In this regard, conditions should be necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other regard.
- 6.3.4. Section 5.13 of the Guidelines states that the planning system does not resolve disputes about title to land or rights over land and this is ultimately a matter for the Courts. In this regard, it notes that a person is not entitled solely by reason of a permission to carry out any development as per Section 34(13) of the Planning Act.

6.4. Other National Policy and Guidance

National Social Enterprise Policy

- 6.4.1. *Trading for Impact, 2024-2027* (DRCDG, 2024), is the State's 2nd National Social Enterprise Policy. It aims to foster an enabling environment for social enterprises in Ireland to grow and meet their potential, and in doing so enrich Irish society and the economy. The policy outlines five high-level objectives supported by specific actions.

- 6.4.2. The policy notes that social enterprise is an enterprise whose objective is to achieve a social/environmental impact, rather than maximising profit for owners/shareholders.

Rural Development Policy

- 6.4.3. *Our Rural Future*, the Rural Development Policy 2021-2025 (DRCDG, 2021) recognises the centrality of people, the importance of vibrant and lived-in rural places, and the potential to create quality jobs in order to sustain our shared environment.
- 6.4.4. Amongst the key objectives is supporting the sustainability of agriculture, the marine and forestry, and supporting the sustainability of our island and coastal communities.
- 6.4.5. The objectives are supported by a suite of policy measures, including the delivery of ambitious job creation targets for the indigenous sector in the strategies of Údarás na Gaeltachta etc. (Policy Measure 23); the delivery of measures to support social enterprises in rural areas to contribute to job creation locally (Policy Measure 30); and to support research and development in areas such as agri-food, smart agriculture and precision agriculture to promote and encourage innovation (Policy Measure 124).

6.5. Other Guidance

Cill Ulta Townland Community Biodiversity Action Plan 2022-2027

- 6.5.1. The Cill Ulta Townland Community Biodiversity Action Plan 2022-2027 is a local biodiversity action plan (LBAP) led by LAN (Lárionad Acmhainní Nádurtha – LAN Ctr).
- 6.5.2. According to Section 1.1 of the LBAP, LAN operates as “Cill Ulta”, a social enterprise centre for sustainability which promotes food sovereignty, sustainable energies, farm-to-fork research, agricultural heritage and craft, biodiversity and the Irish language.
- 6.5.3. To identify priority actions for biodiversity enhancement within the Cill Ulta community horticulture area and any complementary actions are amongst the plan’s stated aims.

Traffic and Transport Assessment Guidelines (PE-PDV-02045)

- 6.5.4. This technical guidance (TII, May 2014) relates to traffic and transport assessments (TTA). Section 2.1 considers the thresholds at which the production of a TTA in relation to planning applications is recommended. Table 2.1 details the relevant thresholds, including where traffic to/from the development exceeds 10% of the traffic flow on the adjoining road or 5% where congestion exists or the location is sensitive; residential development in excess of 200 dwellings. Table 2.3 sets out sub-threshold TTA criteria.

6.6. Natural Heritage Designations

6.6.1. Closest designated sites:

- Falcarragh to Meenlaragh SPA (004149) – contiguous / overlapping
- Ballyness Bay SAC and pNHA (001090) – c. 10m east, northeast
- Inishbofin, Inishdooley and Inishbeg SPA (004083) – c. 3.4km
- Gweedore Bay and Islands SAC and pNHA (001141) – c. 4.8km
- Horn Head and Rinclevan SAC and pNHA (000147) – c. 5.4km
- Corveen Bog NHA – c. 5.5km
- Cloghernagore Bog and Glenveagh National Park SAC and pNHA (002047) – c. 6.4km
- Derryveagh And Glendowan Mountains SPA (004039) – c. 6.4km
- Horn Head to Fanad Head SPA (004194) – c. 6.5km
- Muckish Mountain SAC and pNHA (001179) – c. 6.7km

6.7. EIA Screening

- 6.7.1. The development proposed to be retained is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulation 2001, as amended ('the Regulations'), thus no preliminary examination required (Appendix 1).

6.8. WFD Screening

- 6.8.1. A screening for the purposes of the Water Framework Directive (WFD) has also been carried out. On the basis of objective information, I conclude that the proposal 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 waterbody in reaching its WFD objectives. Therefore, it can be excluded from any further assessment (Appendix 2).

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. A third-party appeal has been lodged by Mr Seamus O'Domhnaill.

7.1.2. The grounds of appeal can be summarised as follows:

Site within and abutting Natura 2000 sites

- Appropriate Assessment (AA) at the very least should have been required given the proximity to Ballyness Bay SAC and Falcarragh to Meenlaragh SPA.
- Opines that the planning authority erred in their interpretation of the need for AA, noting that the water tank was erected on the SPA i.e., resulting in habitat loss.
- Submits that the application is not in accordance with Section 34(12) of the Act.
- Suggest that there are conflicting statements between the submitted wastewater treatment report and that submitted previously (PA ref. 22/51751 refers) in terms of the design capacity of the existing wastewater treatment system (WwTS).
- States that the soakaway associated with the WwTS is not working properly, submitting that raw sewage is being released directly to the SAC via an outfall pipe – thus additional loading could cause damage to the SAC and SPA habitat.

Efficacy of ecological report

- Submits that the ecological report is deficient insofar as it relates to the designation of the SPA, suggesting that the candidacy date of 2012 is the important date.
- Submits that an ecological report is insufficient for the scale and location of the development – noting that previous proposals in the area, including a house extension (PA ref. 18/51881), were accompanied by an NIS and subject to AA.

Unauthorised development

- Submits that the application in its entirety is deficient as it does not contain all of the works which require regularisation i.e., the building to the rear of the site.
- Suggests that the application should be made invalid as per Art. 26(4) of the Regs.

- Refers to an appeal decision under ABP-320625-24 where An Bord Pleanála considered it inappropriate to grant permission in a circumstance where the statutory description of the proposed development was not consistent with the status of the site – stating that this is the case with the subject site.
- States that the planning authority's approach is not consistent with other sites in Donegal, where all aspects of a given site require regularisation.

Stormwater runoff

- States that additional stormwater will run directly into the SAC and SPA.
- Opines that neither a screening nor ecological report can sufficiently consider the impacts of such an increased discharge on the SAC and SPA and an NIS would have been required where mitigation measures could be put in place.
- States that consent would be required for discharge via third party lands, particularly where there is an increased load and no wayleave is in place.
- Suggests that it would also be reasonable to expect a hydrocarbon interceptor given the proximity to the Natura 2000 sites, but states that this was not considered.

Traffic and transport

- Notes the summary of findings in the submitted traffic and transport statement i.e., 57% of trip on the local road (L5093) are as a result of the proposed development.
- Suggests that the L5093 is narrow with dangerous bends and limited visibility and states that the traffic statement does not comment on the road's carrying capacity.
- Submits that the road is not capable of dealing with the associated loading – stating that upgrade works are required and suggesting that this could be conditioned.
- States that the development has an impact on users of the N56 between Falcarragh and Gortahork as well as the users of the L5093.

7.2. Applicant Response

- 7.2.1. The Planning Partnership responded on behalf of the applicant, Údarás na Gaeltachta.
- 7.2.2. The response can be summarised as follows:

Scope of application

- Submits that the application is of limited scope and seeks retention only for the identified development and the site boundary has been drawn accordingly.
- Contends that permission is not being sought for retention of any element of the surface (be it the appellant referenced pipe etc.) or wastewater treatment network.
- States that the development for which retention is being sought is not connected to – and does not rely upon – the WwTS, however details on the condition of the septic tank was submitted to the planning authority under further information.
- Suggests that aerial photography confirms the presence of a structure at the location of the building to the rear of the site ('the packing shed') from at least 1995.
- States that this shed is not located within a designated site and its ongoing use is not adversely impacting the surrounding environment, rather it provides lower intensity, research-led initiatives at the site and was built prior to September 2011.

References to “large” or “increasing” scale of development

- Reiterates that the application does not seek to regularise the full extent of historic activity at the site, though it is informed by the long-standing presence and evolving function of the site under Gaeltarra Éireann and Údarás na Gaeltachta.
- Notes that the scale of operations has decreased compared to earlier periods i.e., reduced glasshouse coverage, lower staff numbers and shift away from intensive commercial horticulture towards research and biodiversity-focussed initiatives.
- Reduced activity has resulted in reduced traffic impacts and daily traffic movements are significantly below the TTA threshold.
- Notes the Cill Ulta LBAP and active cooperation with NPWS, particularly in the management of corncrake habitat and associated land use practices which reflects a less intensive, more sustainable scale of activity and as such the appellant's assertion that the development is “large scale” is not supported.

Ecological context and impact

- Reiterates that no part of the surface or wastewater treatment network forms part of the application and the condition of the septic was accepted by the Council.

- Notes the historical context of activities at the site Gaeltarra Éireann and Údarás na Gaeltachta, and the legislative provisions for same, and the evolving planning and environmental legislative context over this period.
- Notes the site is outside of Ballyness Bay SAC and marginally overlaps with Falcarragh to Meenlaragh SPA and contends that the scale of development and site conditions do not support the appellant's claim of measurable or significant adverse impact on the SPA's integrity i.e., the rainwater harvest tank at this location is minimal in scale and unlikely to have had a significant adverse impact on habitats or QI's of the SPA at the time of its construction as per the ecological report.
- Highlights that the planning authority screened out the development for AA.
- Disputes the relevance of PA ref. 18/51881 and ABP-320625-24 and notes that both cases involved proposed development whereas the subject application is seeking retention only, with an ecological report being requested by the Council under PA ref. 18/51881, as opposed to AA Screening, and the Board noting that some of the proposed works had already been executed in ABP-320625-24.
- Notes that the application was referred to An Taisce, DHLGH (DAU), The Heritage Council and Uisce Éireann and no objections were received by the Council.
- Reiterates that Cill Ulta actively supports the conservation objectives of the SPA and works closely with the NPWS in the interests of corncrake conservation.

Septic tank, soakaway, and alleged outfall pipe

- Reiterates that permission is not being sought for any part of the drainage network and the development for which retention is being sought is not connected to – and does not rely on – the existing WwTS.
- Notes that the wastewater treatment report submitted under PA ref. 22/51751, and subsequently withdrawn, was based on anecdotal information and included PE design calculations for the existing and proposed development.
- States that the current application and wastewater treatment report reflect current operational conditions i.e., existing staff and visitor numbers etc.

- Submits that claims in relation to the associated soakaway (malfunction and/or absent) are unsubstantiated and the wastewater report notes that ground conditions at the location show no signs of malfunction i.e., odours or ponding.
- The report concludes that the septic tank is in good condition and adequately sized and there is no evidence to suggest that it is overloaded / exceeds design capacity.
- Submits that the 'outfall pipe' referenced by the appellant is not part of the wastewater infrastructure, rather it is believed to be an old surface water pipe linked to a gravel-filled French drain.

Surface water management

- Suggests that the surface water system drains through gravity falls in an underground network of pipes that discharges to the east near the polytunnels.
- States that the eastward drainage direction is supported by site topography and thus the suggestion that it will flow into the SPA to the west is not supported.
- Reiterates the limited scope of the proposal and notes that the existing drainage network, hardstanding areas, and roadway are all historic in nature, and form part of the baseline condition of the site at the time of environmental designations.
- States that permission is not being sought for any surface water infrastructure and the development included in the scope of the application does not rely on any third-party lands and Section 34(13) of the Planning Act will protect the rights of neighbouring landowners in any event.
- Accepts that hydrocarbon interceptors may be appropriate in the context of new development but states that the subject proposal does not include any new parking infrastructure or hard surfacing.
- Reiterates that no prescribed bodies objected to the proposed development and the planning authority had full regard to the ecological and infrastructural information submitted and determined that AA was not required.

Traffic and transport

- Reiterates that the subject application is limited in scope and does not include any proposal for new development, road access alterations or changes in land use.

- States that the principle of access via the local road is long-established and predates much of the residential development along the road and therefore the existing access point and associated road infrastructure are not under review.
- The further information response in relation to parking and turning movements was provided to contextualise site operations and are not subject to retention.
- Reiterates that daily traffic movements are significantly below the traffic and transport assessment (TTA) threshold and submits that the vast majority of vehicle movements are cars with only two vans recorded, and a decrease from historic levels of activity involving distribution of commercial tomato crops.
- Notes that neither the Council nor local residents raised any concerns in relation to traffic and transport issues along the local road and the appellants concerns are not substantiated by technical data, accident records or local submissions.

7.3. Planning Authority Response

7.3.1. The planning authority's response can be summarised as follows:

- The issues raised are covered in the Planner's Report(s).

8.0 Planning Assessment

8.1. Preliminary Points

8.1.1. Having examined the application details and all other documentation on the appeal file, including the appeal submissions and observations, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal.

8.1.2. The issues can be addressed under the following headings:

- Land Use and Development Principle
- Public Health (Natural Heritage)
- Traffic and Transport
- Procedural Matters

8.2. Land Use and Development Principle

- 8.2.1. As noted, the proposed development seeks to retain 9 no. polytunnels, a rainwater storage tank, a portacabin office, 2 no. storage containers and other minor works including elevational changes to an office building and separate areas of enclosure.

Background

- 8.2.2. The development facilitates and supports the existing agricultural / horticultural use of the lands and in this regard, whilst the landholding is in the ownership of the applicant's, Údarás na Gaeltachta, it is operated by LAN as "Cill Ulta" enterprise. The supporting documents note that LAN is a non-profit organisation with charitable status.
- 8.2.3. I therefore note that Cill Ulta is the location of an established horticultural enterprise that was initially developed through the work of State bodies, namely Údarás na Gaeltachta and its predecessor Gaeltarra Éireann, as provided for under statute¹. Thus, the works carried out by these bodies are not within the scope of the application, namely the glasshouse, office building and packing shed, the water reservoirs and adjacent pumping station, the wastewater network, including the existing septic tank, and the overall site layout and road infrastructure, including the informal parking areas.
- 8.2.4. In this regard, the supporting planning statements refers to historic statutory provisions which the applicant claims provided a specific exemption to certain works executed at the relevant time i.e., removal of some glasshouses and maintenance of the reservoirs. They also refer to the exemptions provided under Sections 4(1)(a) and 4(1)(h) of the Planning Act in relation to the principal agricultural land use and building maintenance and improvement. Thus, the scope of the proposal is clearly detailed.

Development to be Retained

- 8.2.5. The supporting planning statement therefore details the chronology of the works to be retained. In this regard, I note that two polytunnels were installed in 1996, stated as near the locus of the mushroom houses permitted under PA ref. 92/331, along with a storage container to the rear of the site. In 2006, three additional polytunnels were installed with two more in 2011, along with the portacabin office. It is stated that the final two polytunnels were installed in 2013 and the enclosure areas built. In 2019 the

¹ The Gaeltacht Industries Act, 1957 and the Údarás na Gaeltachta Act, 1979, conferred a general power of competence on the relevant State bodies, e.g., see Section 4(4) and Section 8(7) of the respective Acts.

second of the two storage containers was installed between polytunnels 1-3 and 4-6. Finally, the rainwater tank was installed in 2021 along with general maintenance work.

- 8.2.6. In this regard, the supporting planning statement notes that the well-established agricultural land use continues to be the principal use of the land at the subject site, with all other activities being ancillary to this use. This is not disputed by the appellant.

Consideration of Issues

- 8.2.7. The appellant does, however, suggest variously throughout their appeal submission that the development to be retained is 'large scale', and increasingly so. The applicant, on the other hand, repeatedly states that the development to be retained is of limited scope, as detailed in the supporting planning statement and as summarised above.
- 8.2.8. In the absence of evidence to the contrary and having specific regard to the application details, including the development description, I accept that the development to be retained is generally limited to works ancillary to the established agricultural use of the land. A clear chronology of the site has been presented and, on balance, I accept the claim that much of the landholding was developed by State bodies in a lawful manner.
- 8.2.9. On this basis, I do not agree that the works to be retained are in any way large scale, notwithstanding the planning authority's further information request in relation to the parking and turning areas, and the condition and capacity of the current on-site WwTS.
- 8.2.10. Moreover, I am fully satisfied that the proposal is consistent with the policies and objectives of the Development Plan, specifically in relation to policy ED-P-8 which seeks to support Gaeltacht-based economic opportunities on lands within the ownership of Údarás na Gaeltachta and policy GAE-P-4 which supports enterprise in existing Údarás Na Gaeltachta sites, in addition to policy ED-P-7 relating to the expansion / re-development of existing economic development in the countryside etc.

Conclusion

- 8.2.11. The development proposed to be retained is acceptable in principle and land use terms and fully supported by the County Donegal Development Plan. Broad policy support is also found in the NPF and RSES in respect of agri-food and the rural economy, in addition to Government policy on social enterprise and rural development.
- 8.2.12. Given the nature of the storage containers however, and having regard to policy L-P-1, I do recommend their retention for a two-year period as per the Council's decision.

8.3. Public Health (Natural Heritage)

- 8.3.1. The appellant has raised concerns in relation to the existing drainage infrastructure on the appeal site, specifically the surface water and wastewater drainage networks.
- 8.3.2. Whilst it is raised mainly in the context of the adjacent European sites, and considered further in the AA Screening below, I also consider it here for completeness. It should be noted at the outset, however, that neither form part of the works to be retained.

Surface Water

- 8.3.3. In relation to surface water, the appellant suggests that increased discharge will run directly into Ballyness Bay SAC and Falcarragh to Meenlaragh SPA. The applicant, on the other hand, states that the drainage network and hard surfaced areas are all historic in nature, and form part of the baseline conditions at the time of the SAC and SPA designations. They also refute any suggestion that there is additional loading.
- 8.3.4. Nonetheless, the applicant submits that surface water is gravity drained through an underground network of pipes that discharge to the east near the polytunnels and that this eastward flow is supported by site topography and therefore not towards the SPA.
- 8.3.5. In this regard, they refer to the surface water statement submitted with the application. It states that three locations were identified where the surface water discharges, whilst a further manhole/access junction located to the north of polytunnels 1-3 could not be determined and no information was available due to the historic nature of the pipework.
- 8.3.6. In relation to the development to be retained, the only notable runoff is from the polytunnels and to a lesser extent from the containers, portacabin and storage tank. There was no evidence of drainage gullies taking runoff from these structures and discharging to the existing network during my inspection, save for a single gully adjacent to the water storage tank. With the exception of the latter, it is entirely reasonable to presume that runoff from these structures' infiltrates to ground, which I note is common for such structures, particularly polytunnels, and I accept the applicant's claim that the wider site and landholding drains to the existing network.
- 8.3.7. Whilst the presence of the gully adjacent to the water storage tank contradicts the applicant's claim somewhat, that the development to be retained is independent of the existing drainage system, I do note that it is located on hardstanding that otherwise would have drained to the same, or adjacent gully to the rear of the office building.

The same principle therefore also applies to any fugitive runoff from the portacabin, whereas both storage containers and the polytunnels are located on permeable areas.

- 8.3.8. The surface water statement submitted with the application also clarifies the rainwater harvesting network and distribution system, where rainwater is collected from the glasshouse roof to the west of the site and diverted to the reservoir to the northeast boundary; from there, water is then pumped back up via the adjacent pumping station to the water storage tank behind the main office building. Stored water is then distributed via the underground pipework to the polytunnels for irrigation purposes.
- 8.3.9. Whilst I note that the water storage tank to be retained forms part of the rainwater harvesting network, it is evidently part of a closed-loop system. In such circumstances I do not consider there is any uncontrolled discharges to land from this pipe network.
- 8.3.10. I am therefore satisfied that there is adequate surface water drainage in place for the development to be retained and this is largely independent of the existing, historic network. Whilst I accept that hydrocarbon / pollution interceptors prior to outfall on the existing network could be reasonably expected, as suggested by the appellant, and indeed flow control measures, this is independent of the proposal before the Commission. To condition such measures would be outside of the relevant tests as detailed in Section 7.3 of the Development Management Guidelines i.e., the condition would not be necessary and would not be relevant to the development to be permitted.

Wastewater

- 8.3.11. In relation to wastewater, the appellant suggests that the soakaway associated with the WwTS is not working properly with raw sewage releasing directly to the SAC. Their submission includes a number of photographs of purported effluent in Ballyness Bay, suggesting that the source of this discharge is an outfall pipe on the site boundary.
- 8.3.12. The applicant, on the other hand, contends that the development for which retention is being sought is not connected to – and does not rely on – the existing WwTS. Moreover, they submit that the claims in relation to the WwTS soakaway are unsubstantiated and that the alleged outfall sewer pipe is an old surface water pipe.
- 8.3.13. I inspected the locus of the alleged outfall sewer pipe during the course of my site visit and I am fully satisfied that it does not convey effluent from the existing WwTS. For clarity, I observed a c. 3.5m long, Ø300mm cast iron pipe straddling the landholding.

Whilst it does outfall to the inner shoreline of Ballyness Bay, it is a short section of pipe that conveys surface water from an adjoining drainage ditch on the landholding. The minimal brown-orange particles I observed in the water at this location appear to be as a result of iron oxide and in this regard, I note that the pipe is sheared at the outfall end. I do not, therefore, agree with the appellant that this is the source of effluent. Indeed, the appellant's photographs suggest to me that the source of the effluent is near the shoreline, southeast of this surface water outfall (see appellant's 'Image 11').

- 8.3.14. The appellant also suggests that there is conflicting information regarding the existing WwTS, whereas the applicant states that the wastewater treatment report submitted under PA ref. 22/51751 included PE design calculations for the existing and proposed development, whilst the current report is based on existing staff and visitors only. In this regard, I accept the applicant's argument in relation to the PE design calculation.
- 8.3.15. I have reviewed the wastewater treatment report submitted under the subject application at further information stage and the report submitted under the withdrawn application (PA ref. 22/51751). Whilst I note the latter report refers to "an ageing septic tank" that "shall be appropriately decommissioned", it does not explicitly state that the system is malfunctioning. Moreover, the subject report states that the "septic tank is in good condition and is adequately sized" and whilst it also recognises that the soakaway 'does not conform to current specification, all visual evidence suggests that it does not show any adverse health or environmental concerns.' In this regard, the report presumes that the soakaway area is in excess of 80 metres from the shoreline.
- 8.3.16. I inspected the locus of the septic tank and presumed location of the soakaway during my site visit and I agree with the findings of the report, and the applicant's submission, in that there were no odours or ponding and the vegetation was consistent in this area. Moreover, given the landform and features of the area, including the reservoir, there was no on-site evidence to corroborate the above claims regarding an effluent outfall.
- 8.3.17. Noting the de-sludging requirements outlined in the Code of Practice *Domestic Waste Water Treatment Systems* (EPA, March 2021), the submitted report recommends that the septic tank be inspected monthly and emptied every 6 months. I note that such a condition was attached by the planning authority notwithstanding the applicant's claims that the development to be retained was independent of the existing WwTS. As the applicant has not appealed this condition, and having regard to the internal

layout of the portacabin, with sink, and white waste pipe to the rear, which contradicts the applicant's claims somewhat, I consider that Condition 2 of the Council's decision is necessary, relevant to the development to be permitted and reasonable in all other regards, and recommend it be attached in the event of a grant of planning permission.

Conclusion on Public Health (Natural Heritage)

- 8.3.18. On balance, I am satisfied that the development to be retained will not adversely impact on public health by reason of deficient surface or wastewater infrastructure. Infiltration to ground, from the limited impermeable areas to be retained, is acceptable, however I do recommend a standard water drainage condition in the event of a grant. I also recommend that the Commission attach Condition 2 of the Council's decision.
- 8.3.19. However, in the present circumstances, it is important to stress that any attempts to retrospectively 'fix' any elements extraneous to the development to be retained, such as the conditioning of upgrades to the existing surface water network or wastewater treatment system, would, in my opinion, be beyond the power of the Planning Act.

8.4. Traffic and Transport

- 8.4.1. Penultimately, the appellant raises concerns in relation to the carrying capacity of the local road, having regard to its horizontal and vertical alignment, and the quantum of traffic the proposal generates, in addition to concerns over impacts on the nearby N56. They suggest that road upgrades are required and that this could be conditioned.
- 8.4.2. The applicant, on the other hand, states that the principle of access via the N56 and L5093 is long-established and pre-dates much of the housing on this road. Moreover, they note that the daily traffic movements are below TTA thresholds, mostly car related, and represent a decrease from historic levels. They also note that neither the Council nor the local residents raised any concerns in relation to traffic or transport.
- 8.4.3. As noted, the appeal site is located along and north of the L5093, some 350m northwest of its junction with the N56. The L5093 is a narrow, single-track section of cul-de-sac, roughly 750m in length. The road serves some 18 houses and 5 static homes, albeit the vast majority of houses, 14 no., are located beyond the site entrance. A speed limit of 60kph applies to this, and all, local roads since 7th February 2025.

- 8.4.4. I have reviewed the traffic and transport statement submitted with the application and whilst I note it states that ‘a maximum of 57% of trips along the L5093 are generated by the existing development’, I respectfully suggest that this relates to the entire Cill Ulta site, as opposed to the development to be retained specifically. Moreover, the traffic generated from the activities on the landholding is significantly below the TII’s TTA thresholds, and the development to be retained does not materially intensify demand on the N56/L5093 junction or site access i.e., there is no change in land use.
- 8.4.5. Whilst I accept that the vertical and horizontal alignment of the local road in advance of the site entrance is challenging, with a sharp bend c. 100m east, and there is limited forward visibility between the site and N56, I observed traffic speed and volume as generally low during my inspection. I also note that there are a number of pull-in areas between the site and N56, and sightlines at the existing site entrance are adequate.

Conclusion on Traffic and Transport

- 8.4.6. On balance, I am satisfied that the development to be retained would not endanger public safety by reason of a traffic hazard on the N56, L5093 or at their junction, where the latter benefits from a right-turn lane. Nor, do I consider any road upgrades necessary, given the low speeds, limited traffic, pull-in areas and adequate sightlines.

8.5. Procedural Matters

- 8.5.1. Finally, the appellant has raised concerns in respect of alleged unauthorised development on the site and the subsequent validation of the subject application. They also raise concerns in relation to surface water discharging over third-party land.

Validation & Enforcement

- 8.5.2. The appellant has suggested that the application should be made invalid in accordance with Article 26(4) of the Regulations. Specific concerns relate to the development description vis-à-vis the site status, referring to ABP-320625-24 as an appeal precedent, and suggesting that the ‘packing shed’ is an unauthorised structure.
- 8.5.3. Article 26(4) of the Regulations provides for a ‘second stage’ invalidation procedure where it becomes apparent, following the inspection of an application site, that some validation requirements were not met or the information submitted is substantially incorrect or substantial information was omitted. It generally falls to the planning

authority to determine at first instance; however, I do accept that this may also be an issue for the Commission to decide upon, and ABP-320625-24 is evidence of such.

- 8.5.4. The applicant, on the other hand, highlights the distinction between the current proposal and the specific circumstances under ABP-320625-24. In that case, the applicant was seeking permission for a proposed farm shed, and the planning inspector, during the course of his inspection, observed a shed positioned generally at the locus of that proposed, and thus the description was deemed to be inaccurate. Whereas the applicant here is seeking permission to retain elements of development that they consider do not benefit from permission, an exemption or other authorisations / consents and I am not fully persuaded by the appellant's submissions in this regard.
- 8.5.5. On this basis, I am satisfied that the planning authority was procedurally correct in validating the application and no prejudice has arisen given the appellant's participation in the application and subsequent appeal. Moreover, the enforcement of planning control falls outside the remit of the Commission and this is a matter for the planning authority to deal with as they see fit. I do however, note, a structure in the vicinity of the 'packing shed' in ortho imagery from 1995 and in the subsequent years.

Wayleave

- 8.5.6. The appellant submits that consent would be required for discharge via third party lands, particularly where there is an increased load and no wayleave is in place. Issues in relation to the alleged increased loading and discharge are considered fully above, and the appellant's claims in relation to the wayleave are unsubstantiated.
- 8.5.7. Moreover, claims over rights of way is a civil matter to be resolved between the parties, having regard to the provisions of Section 34(13) of the Act. In this regard, I note that Section 5.13 of the Development Management Guidelines states that the planning system does not resolve disputes about title to land or rights over land and this is ultimately a matter for the Courts. Thus, the Commission does not have jurisdiction.

Conclusion on Procedural Matters

- 8.5.8. In terms of procedural matters and the alleged irregularities in relation to the validation of the planning application, I note that both matters were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from

making representations. The above assessment represents my *de novo* consideration of all planning issues material to the development that is proposed to be retained.

9.0 AA Screening

9.1. Introduction

- 9.1.1. The planning application was accompanied by an ecological statement (The Planning Partnership). Section 1.1 indicates that it was co-authored by Coiscéim Consulting.
- 9.1.2. The planning authority screened out the need for Stage 2 Appropriate Assessment (AA). Their screening determination stated:

“That an appropriate assessment of the development is not required as it can be excluded on the basis of objective scientific information that the proposed development will have a significant effect on nearby Natura 2000 Sites i.e. Falcarragh to Meenlaragh SPA and Ballyness Bay SAC.”

- 9.1.3. The crux of the appellant’s submission relates to the proximity of the site to Ballyness Bay SAC and Falcarragh to Meenlaragh SPA, suggesting that Stage 2 AA is required.
- 9.1.4. The Commission is the competent authority for the purposes of AA in relation to plans or projects before it and can only permit the proposal after having ascertained that it would not adversely affect the integrity of a European site in view of the site’s Conservation Objectives (unless the provisions of Article 6(4) are met). That is the case where no reasonable scientific doubt remains as to the absence of such effects.

9.2. Stage 1 (Screening)

- 9.2.1. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development proposed to be retained, alone, or in combination with other plans and projects on any of the designated European sites. I have carried out a full screening determination for the development and it is attached to this report (Appendix 3). For completeness, the sites included in the screening exercise are:

- Ballyness Bay SAC
- Falcarragh to Meenlaragh SPA

Screening Determination

9.2.2. In accordance with Section 177U of the Planning and Development Act 2000, as amended, and on the basis of the information considered in this AA screening, I conclude that the development proposed to be retained individually or in combination with other plans or projects would not be likely to give (or have given) rise to significant effects on European sites within Ballyness Bay namely, Ballyness Bay SAC or Falcarragh to Meenlaragh SPA, or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS / remedial NIS) is not therefore required.

9.2.3. This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European site
- Low potential for source impacts of any magnitude
- Development within a locally serviced agricultural landholding with existing surface and wastewater treatment systems
- Consideration of the conservation objectives of:
Ballyness Bay SAC
Falcarragh to Meenlaragh SPA

10.0 Recommendation

I recommend that permission be **granted** for the reasons and considerations below.

11.0 Reasons and Considerations

Having regard to the provisions of County Donegal Development Plan 2024-2030, the nature of the development proposed to be retained, the scale of this development in the context of the agricultural landholding, the established nature of the agri-food social enterprise on this landholding, including the promotion of agricultural heritage and the Irish language, and the prevailing pattern and character of development in this Gaeltacht area, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained would not seriously injure the

residential or visual amenities of the area or of property in the vicinity, would not endanger public safety by reason of a traffic hazard or adversely impact on public health or on the natural heritage of the area. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be retained in accordance with the plans and particulars submitted with the planning application as amended by the further plans and particulars submitted on the 28th of March 2025 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interests of clarity.

2. The existing septic tank shall be inspected monthly and emptied every 6 months in accordance with the recommendation contained within the Septic Tank Treatment System Assessment (Alvin Morrow, March 2025). The applicant shall keep a record of such inspections and the emptying regime.

Reason: In the interests of public health.

3. The storage containers hereby permitted shall be removed from the site within two years from the date of this order.

Reason: In the interest of visual amenity and orderly development.

4. (a) The polytunnels shall be used for horticultural purposes only.
(b) The polytunnels shall be maintained in good condition and any torn or defaced plastic covering shall be removed and replaced with new covering.
(c) The polytunnels shall be secured against wind and inclement weather.

Reason: In the interests of visual amenity and orderly development.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. 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 within three months of the date of this order 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.

Philip Maguire

Inspectorate

29th August 2025

Appendix 1 (EIA Screening)

Form 1 – EIA Pre-Screening

Case Reference	ABP-322521-25
Proposed Development Summary	Retention of 9 no. polytunnels, 1 no. rainwater storage tank, 1 no. portacabin and 2 no. containers and all associated site works
Development Address	Killult, Falcarragh, Letterkenny, 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)	<input checked="" type="checkbox"/> Yes, it is a ‘Project’. Proceed to Q2. <input type="checkbox"/> 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)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> 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?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2,	

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	

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"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2 (WFD Screening)

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	ABP-322521-25	Townland, address	Killult, Falcarragh, Letterkenny, Co. Donegal
Description of project		Retention of 9 no. polytunnels, 1 no. rainwater storage tank, 1 no. portacabin and 2 no. containers and all associated site works	
Brief site description, relevant to WFD Screening		<p>A 0.8ha brownfield site.</p> <p>Established agricultural / horticultural landholding – agri-food social enterprise.</p> <p>No habitats classification submitted – some invasive species evident but very limited save for giant rhubarb <i>Gunnera manicata</i> along a field / landholding boundary to the west.</p> <p>No open watercourses evident on / adjacent appeal site.</p> <p>Various surface water drains / outfalls on landholding.</p> <p>Surface water statement submitted by applicant - see section 8.3 of IR for details.</p> <p>No trial holes excavated as part of the proposal – wastewater report submitted under further information indicates that the septic tank is in good condition and refers to a previous site assessment (March 2022) where the winter water table was 1.5mBGL and topsoil (P) and subsoil (T) percolation values were observed as 27 and 28 respectively, indicative of good drainage characteristics on the land.</p>	

Proposed surface water details			‘Not applicable’ ticked in Q. 20 of the Application Form – the development to be retained does not connect to the existing surface water drainage network on the landholding. Note: See section 8.3 of IR for further discussion.			
Proposed water supply source & available capacity			‘Existing’ ‘public mains’ ticked in Q. 20 of the Application Form. Uisce Éireann mains water connection – capacity available (Gortahork-Falcarragh). Note: See section 8.3 of IR for further discussion regarding crop irrigation.			
Proposed wastewater treatment system & available capacity, other issues			‘Existing’ ‘conventional septic tank system’ ticked in Q. 20 of the Application Form. Note: See section 8.3 of IR for further discussion.			
Others?			Refuelling of machinery (e.g. tractors) and spraying of crops in the polytunnels is established agricultural practice at this landholding and does not represent WFD risk.			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
Coastal Waterbody	c. 40m (overland)	Ballyness Bay IE_NW_170_00 00	High	Not at risk	No pressures	Yes – tenuous via surface water run-off owing to proximity and topography; and existing outfall locations

Groundwater Waterbody		Underlying site	Northwest Donegal IE_NW_G_049	Good	Not at risk	No pressures	Yes –evidence of good infiltration characteristics in the soils
Step 2: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Waterbody receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if ‘screened’ in or ‘uncertain’ proceed to Stage 2.
1.	Coastal	Ballyness Bay IE_NW_170_0000	Tenuous via surface water runoff – no new pathways (See section 8.3 of IR)	Siltation, pH (Concrete), hydrocarbon spillages – limited given the nature of the works	Standard construction measures	No	Screened out
2.	Ground	Northwest Donegal IE_NW_G_049	Pathway exists with good drainage characteristics	Hydrocarbon spillages – limited given the nature of the works	As above	No	Screened out

OPERATIONAL PHASE							
3.	Coastal	Ballyness Bay IE_NW_170_0000	Tenuous via surface water runoff – no new pathways (See section 8.3 of IR)	Hydrocarbon, chemical spillages – albeit extremely unlikely given the nature of the proposal	Standard agricultural practices	No	Screened out
4.	Ground	Northwest Donegal IE_NW_G_049	Pathway exists with good drainage characteristics	As above	As above	No	Screened out
DECOMMISSIONING PHASE							
5.	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Appendix 3 (AA Screening)

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Retention of 9 no. polytunnels, 1 no. rainwater storage tank, 1 no. portacabin and 2 no. containers and all associated site works
Brief description of development site characteristics and potential impact mechanisms	<p>A 0.8ha brownfield site within an established agricultural / horticultural site – agri-food social enterprise.</p> <p>The nearest European sites bound the appeal site to the north and west, partly overlapping some of the development to be retained (Falcarragh to Meenlaragh SPA) and to the east (Ballyness Bay SAC).</p> <p>Surface water drainage and groundwater (WwTS) vectors on landholding albeit not part of proposal.</p> <p>The development is likely to have involved the removal of some pre-existing demolition wastes at the site in addition to excavated soils, boulder clay, rock and vegetation.</p> <p>Of the limited ground works involved – construction activities are likely to have required the use of potentially harmful materials, such as fuels, concrete and other such substances and would have given rise to waste for disposal. Such wastes are typical of construction sites.</p> <p>Noise and dust emissions during construction are likely to have occurred but such construction impacts would have been highly localised and very temporary in nature.</p> <p>Significant wastes, emissions or pollutants are not evident although it is noted that a significant quantum of pre-existing glasshouses were historically removed from the appeal site, although not directly related to the proposal.</p>
Screening report	No – Planning / Ecological Statement (The Planning Partnership, Dec. 2024) submitted with application.
Natura Impact Statement	No
Relevant submissions	None
Additional information	<p>Donegal Co. Council screened out the need for AA.</p> <p>I note that the application was referred to An Taisce, DHLGH (DAU), The Heritage Council and Uisce Éireann and no objections were received by the planning authority.</p>

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

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Ballyness Bay SAC (001090)	Estuarine and coastal habitats Geyer's Whorl Snail Conservation Objectives Link NPWS, 2014	c. 10m from appeal site boundary (20m from nearest structure to be retained)	Yes, indirect-tenuous via surface water drainage network, groundwater flow and proximity.	Y
Falcarragh to Meenlaragh SPA (004149)	Corncrake Conservation Objectives Link NPWS, 2024	Bounding and partly overlapping appeal site to the west and bounding appeal site to the north	Yes, partly within appeal site, therefore direct loss of habitat, fragmentation and indirect, as above.	Y

¹Summary description / **cross reference to NPWS website** is acceptable at this stage in the report

²Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species

³if no connections: N

Further Commentary / Discussion

Due to the limited scope of the works and the nature of the appeal site within a larger landholding enclosed by Ballyness Bay, I consider that the development to be retained is unlikely to have generated impacts that could have affected anything but the immediate area of the site, thus a very limited potential zone of influence is reasonable i.e., <1km.

The development to be retained is unlikely to have resulted in any direct impact on Ballyness Bay SAC. However, due to proximity, impacts generated during construction and operation require consideration. Whereas an element of the development to be retained, namely the water storage tank, is located partly within the Falcarragh to Meenlaragh SPA and therefore direct and indirect impacts require consideration.

Sources of impact and likely significant effects are considered in the Table below.

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

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<p>Ballyness Bay SAC (001090)</p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</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) (priority) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Geyers Whorl Snail <i>Vertigo geyeri</i> [1013]</p>	<p>Direct: none.</p> <p>Indirect:</p> <p>Localized, temporary, low magnitude impacts from noise, dust and construction related emissions to surface water during construction.</p> <p>Low magnitude impacts from agricultural related emissions to ground and surface waters during operation, including hydrocarbons and crop spraying chemicals.</p> <p>Increased human disturbance at this site, particularly during the construction phase (including demolition of the pre-existing glasshouses – albeit pre-dating the SAC candidate designation i.e., 1st March 1997 – and not specifically related to the development to be retained).</p>	<p>The contained nature of the appeal site (within a locally serviced landholding with mature boundaries, no direct ecological connections or pathways – see section 8.3 of IR) and distance from receiving features connected to the SAC (i.e. only [1140] Mudflats etc. occurs near the landholding), make it highly unlikely that the development proposed to be retained generated or continues to generate impacts of a magnitude that could affect or could have affected habitat quality within the SAC for the QIs listed.</p> <p>Conservation objectives would not be undermined.</p>
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<p>Falcarragh to Meenlaragh SPA (004149)</p> <p>Corncrake <i>Crex crex</i> [A122]</p>	<p>Direct:</p> <p>Loss of habitat, site fragmentation, reduction in species density and population.</p> <p>Increased human disturbance at this site, particularly during the construction phase (including any demolition).</p> <p>Indirect:</p> <p>Localized, temporary, low magnitude impacts from noise, dust and construction related emissions to surface water during construction.</p> <p>Low magnitude impacts from agricultural related emissions to ground and surface waters during operation, including hydrocarbons and crop spraying chemicals.</p> <p>Increased human disturbance at this site, particularly during the construction phase (including any demolition).</p>	<p>Direct:</p> <p>Some 30sq.m of the appeal site (incl. rainwater storage tank) is located within the SPA. Having regard to the scale of development and the unsuitability of a pre-existing hedgerow at this locus (as per ortho imagery), it is highly unlikely that the works resulted in a significant loss or fragmentation of nesting or foraging habitat i.e., tall, well structure grass vegetation. Moreover, it is unlikely that any disturbance arose, affecting their density and population i.e., stable population within the SPA network.</p> <p>Indirect:</p> <p>The otherwise contained nature of the appeal site (within a locally serviced landholding with mature boundaries) and distance from receiving features connected to the SPA make it highly unlikely that the development to be retained generated or continues to generate impacts of a magnitude that could affect or could have affected habitat quality within the SPA for the SCI listed.</p> <p>Conservation objectives would not be undermined.</p>
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	

Further Commentary / discussion (only where necessary)

The applicant has submitted an ecological report to assist with this screening. In relation to the SAC, the report states that the works for which retention is sought:

- Have not taken place within the Ballyness Bay SAC,
- Are not works identified as 'threats, pressures and activities' having a potential effect on the Ballyness Bay SAC, and are not Activities Requiring Consent (ARCs) that have taken place within the Ballyness Bay SAC,
- Have had no material impact on the total hectares of the habitat area or community distribution of the most relevant QI's that occurs near the subject site, being [1140] Mudflats and sandflats not covered by seawater at low tide, which is indicated as having an excellent conservation status.

In relation to the SPA, the report states that the works for which retention is sought:

- Have not taken place within the Falcarragh to Meenlaragh SPA, with the exception of the rainwater harvest tank which is minimal in scale and unlikely to have had a significant adverse impact on habitats at the time the development was undertaken,
- Are not works identified as 'threats, pressures and activities' having a potential effect on the Falcarragh to Meenlaragh SPA, and are not ARCs listed in Schedule 3 of S.I. No. 389/2021,
- Would not appear to have had any significant long-term / permanent adverse impact on corncrakes in the area, beyond any potential negative variations that are smaller than natural fluctuations regarded as normal for the species or habitat, wherein the fields at Cill Ulta have generally supported 1-3 calling males annually in the past 5 years and it is evident per NPWS surveys that the corncrake population is superior to the baseline condition nationally.

On this basis the report concludes that the works for which retention is sought would have had no significant adverse impacts on habitats at the time the developments were undertaken. I consider this a reasonable ecological assessment and conclusion, and whilst I note that the appellant raises concerns regarding the timing of the works and the candidacy date of the SPA, the report explicitly relates to when the works were executed.

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

I conclude that the development proposed to be retained (alone / in combination with other plans and projects) did not / would not result in likely significant effects on a European site.

No mitigation measures are required to come to these conclusions. Whilst I consider that the provision of the oil / petrol interceptors are standard measures to prevent ingress of vehicle pollutants and are not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC or SPA, and I note the appellants submission in respect of same, I do not consider such measures warranted given the nature of the proposal.

I do, however, recommend that the Commission attach Condition 2 of the Council's decision in addition to a standard surface water condition – see section 8.3 of the IR.

Screening Determination

Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000, as amended, and on the basis of the information considered in this AA screening, I conclude that the development proposed to be retained individually or in combination with other plans or projects would not be likely to give (or have given) rise to significant effects on European sites within Ballyness Bay namely, Ballyness Bay SAC or Falcarragh to Meenlaragh SPA, or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS / remedial NIS) is not therefore required.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European site
- Low potential for source impacts of any magnitude
- Development within a locally serviced agricultural landholding with existing surface and wastewater treatment systems
- Consideration of the conservation objectives of:
Ballyness Bay SAC
Falcarragh to Meenlaragh SPA

This page is intentionally left blank.