



An
Coimisiún
Pleanála

Inspector's Report ACP-324352-26

Question

Whether the laying out and use of land for specified motorsports events is or is not development or is or is not exempted development

Location

Tinney's Coal & Oil, Bonagee,
Letterkenny, Co. Donegal

Declaration

Planning Authority

Donegal County Council

Planning Authority Reg. Ref.

S5 26/56

Applicant for Declaration

Elliot Coffey

Planning Authority Decision

Is not exempted development

Referral

Referred by

Elliott Coffey

Owner/ Occupier

Barry Fuels Ltd.

Observer(s)

None

Date of Site Inspection

18th September 2026

Inspector

Philip Maguire

Contents

1.0 Introduction	4
2.0 Site Location and Description	4
3.0 The Question	4
4.0 Planning Authority Declaration.....	6
4.1. Declaration.....	6
4.2. Planning Authority Reports	6
5.0 Planning History.....	8
6.0 Policy Context.....	9
6.1. County Donegal Development Plan 2024-2030	9
6.2. Letterkenny Plan and Local Transport Plan 2023-2029	9
6.3. Natural Heritage Designations	10
7.0 The Referral.....	10
7.1. Referrer's Case.....	10
7.2. Planning Authority Response.....	11
7.3. Owner / Occupier's Response	11
8.0 Statutory Provisions.....	11
8.1. Overview	11
8.2. Planning and Development Act 2000	12
8.3. Planning and Development Regulations 2001	14
8.4. Planning and Development Act 2024.....	15
8.5. Planning and Development (Licensing of Outdoor Events) Regs 2026	15
9.0 Precedent Decisions.....	16
9.1. Precedent Referral Cases.....	16

9.2. Precedent Legal Judgements	18
10.0 Assessment.....	20
10.1. Preliminary Points	20
10.2. Is or Is Not development.....	20
10.3. Is or Is Not Exempted Development.....	22
10.4. Restrictions on Exempted Development.....	24
11.0 AA Screening.....	26
12.0 Recommendation	26
Appendix 1 (AA – Stage 1).....	30
Appendix 2 (EIA Screening)	36

1.0 Introduction

- 1.1. This case relates to a referral by Elliott Coffey under Section 5(3)(a) of the Planning and Development Act 2000, as amended ('the 2000 Act'), in respect of a declaration made by Donegal County Council regarding lands at Bonagee, Letterkenny, Donegal.
- 1.2. This Inspector's Report (IR) and recommendation is made pursuant to Section 376(3) of the Planning and Development Act 2024, as amended ('the 2024 Act'). An Coimisiún Pleanála ('the Commission') is required to consider both before determining the case.

2.0 Site Location and Description

- 2.1. Located off and to the northern side of the N56, due north of its junction with the N13 (Dry Arch Roundabout), the referral site is situated to the eastern periphery of Letterkenny, some 2.5km east of the town centre. It is accessed via Bonagee Lane (L11142) which serves a variety of recreational, commercial and industrial type uses as well as civic uses including a wastewater treatment works and vehicle test centre. The wider surrounding area is characterised by low-lying agricultural land encircled by a meander in the River Swilly albeit protected by raised earth banks with inner burn.
- 2.2. The referral site lies to the east of Bonagee Lane and is directly accessible off same, albeit via separate access points. In this regard, the southern portion of the referral site encompasses part of a fuel supplier's yard (trading as Tinney's Coal & Oil). Immediately to the north lies Lough Swilly Test Centre, which has boundaries defined by high palisade fencing and is excluded from the referral site. To the north of the test centre lies an open area with a large concrete slab surrounded by undeveloped grassland to the north and east. An earth bank runs along the northern edge of this hardstand area. Boundaries here are defined by a mix of palisade and post and wire fencing. The eastern and part of the western boundary adjoin the open burn / stream.

3.0 The Question

- 3.1. The matter has been referred by the first party. A letter enclosed with the referral and dated 7th June 2026 sets out the basis for the referral as detailed in section 7 below.
- 3.2. In addition to the aforementioned cover letter, the referral includes a copy of the Section 5 Application form where the proposed development is described as follows:

“The carrying out of Motorsport events on an occasional basis no more than 29 days aggregate in any one calendar year with no event lasting more than 4 days in any one instance. Less than 5,000 participants / spectators at any one event.

The Motorsport being primarily car showing and car diffing events and all ancillary activities on a for profit and charitable basis. This activity is to be conducted on existing concrete hardstands, the areas being defined on the ground by concrete movable barriers, all associated signage, pedestrian access and temporary barriers. The making of temporary spectator areas, the placing of temporary toilets, food vans, mobile retail units, to serve persons attending the event. The temporary use of loudspeaker equipment. The site to be remediated after each event.

The temporary use of the site and adjoining lands (both aggregate and green field) for the parking of vehicles attending the said events.”

3.3. I note a number of supplementary questions posed in a further document entitled ‘Additional Information which forms part of the Section 5 Application’. They are:

- *Is this activity considered development?*
- *If the first answer is in the affirmative, is this development considered exempted development?*
- *If the answer to the second question is that the activity is exempt development, under what provision is the development exempt development?*
- *If the activity is not exempt, what has the local authority done to prevent such development continuing?*

3.4. The referral also includes photographs and fliers of various events as well as a number of maps and aerial photographs outlining the site. As noted, the area around the Lough Swilly Test Centre, and defined by palisade fencing, is excluded from the site.

3.5. The planning authority’s Planner’s Report, which is also included within the submitted referral documentation, considers the questions posed are as follows:

1. *Whether the carrying out of motorsport events on an occasional basis no more than 29 days aggregate in one calendar year with no event lasting 4 days in any one instance with less than 5,000 participants / spectators at any one event is / is not development and is / is not exempted development. The information*

elaborates to describe the motorsport as car showing and car drifting events conducted on existing concrete hardstands, defined on the ground by concrete movable barriers, all associated signage, pedestrian access and temporary barriers. The further information provided states that the nature of the event is not fixed and the layout and provisions for spectators and participants varies from day to day.

2. *Whether placing of temporary toilets, food vans and mobile retail units, to serve persons attending the event including the use of loudspeaker equipment is / is not development and is / is not exempted development.*

4.0 Planning Authority Declaration

4.1. Declaration

- 4.1.1. The Section 5 declaration on 12th May 2026 summarised the development description:

“Carrying out of motorsport events on an occasional basis no more than 29 days aggregate in any one calendar year with no event lasting more than 4 days with less than 5,000 participants / spectators.”

- 4.1.2. The declaration concluded that:

“The proposal is development within the meaning of the Planning and Development Act, 2000 (as amended); and is not exempted development under:

- *Section 4(4) of the Planning and Development Act, 2000 (as amended) as the environmental impacts of the said use are such that it requires to be the subject of an Appropriate Assessment and*
- *Article 9(1)(a)(viiB) of the abovementioned regulations for the same reason.”*

4.2. Planning Authority Reports

- 4.2.1. The Planner’s Report (12/05/26) assessment can be summarised as follows:

Is or is not development

- Refers to Sections 2 and 3 of the Planning and Development Act 2000, as amended.

- Notes that the events would attract members of the public to the land, with traffic generation etc., giving rise to significantly different planning considerations including the character, volume and frequency of noise from the event itself.
- Considers that the carrying out of motorsport events would involve a material change of use and would therefore constitute development.
- Considers that the placing of temporary toilets, food vans, mobile retail units and use of loudspeaker equipment on the land would constitute development insofar as it would be ancillary to, and inextricably linked with, the main motorsport event.

Is or is not exempted development

- Refers to Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- States that the planning authority is satisfied that the existing form of the land has resulted from authorised development having regard to recent planning history.
- States that the land is laid out to facilitate its use for the motorsport event through the placement of movable structures and information from previous events demonstrates that the land is easily returned to its authorised permanent use.
- Considers it a local event of a sporting character and falls within the scope of Class 37 in that the land will not be used for this purpose either continuously for a period exceeding 15 days or occasionally for periods exceeding 30 days (agg) in any year.
- Considers that the temporary toilets, food vans etc. are ancillary to the main use and therefore also fall within the scope of Class 37 of the Regulations.

AA Screening

- States that consideration has been given to the site's proximity to the nearest Natura 2000 sites, Lough Swilly SAC and SPA along its eastern edge.
- States that there is potential for a significant effect individually or in combination with other plans or projects on a European site due to this proximity.
- Refers to the AA screening and states that it has identified likely impacts of the development on the Natura 2000 sites and determines that these impacts have the potential to be significant.

- States AA is required as it cannot be excluded on the basis of objective scientific information that the proposal individually or in combination with their plans/projects will not have a significant effect on the adjacent Natura 2000 sites.

Environmental Impact Assessment

- Concludes that EIA screening is not required and the need for an EIAR can be excluded at preliminary examination stage.

Recommendation

- Concludes that the proposal is development and is not exempt development under Section 4(4) of the Planning Act as the environmental impacts of said use are such that it requires to be the subject of an Appropriate Assessment.
- The development is also de-exempted under Article 9(1)(a)(viiB) of the Planning Regulations for the same reason.

5.0 Planning History

5.1. Referral Site (Northern Half)

- 5.1.1. PA ref. 24/60379 – in July 2024, the planning authority granted permission for a warehouse storage building (in 3 no. units) with an associated office building and car parking etc. I note that a Natura Impact Statement (NIS) accompanied this application.

5.2. Referral Site (Southern Half)

- 5.2.1. PA ref. 23/50427 – in April 2024, the decision of the planning authority was upheld on appeal and permission granted (ABP-317354-23) for the installation of a 60-tonne LPG propane tank etc. near the existing lorry wash. An NIS accompanied this application.
- 5.2.2. PA ref. 21/50424 – in December 2023, the decision of the planning authority was upheld and permission granted (ABP-313721-22) for a waste transfer station (within existing building) and a civic amenity centre etc. An NIS accompanied this application.
- 5.2.3. PA ref. 21/50032 – in April 2022, the decision of the planning authority was overturned on appeal and permission refused (ABP-311514-21) for the installation of a 60-tonne LPG propane tank etc. The Board was not satisfied that the proposal, individually, or in combination with other plans or projects, would not be likely to have a significant effect on the Lough Swilly Special Area of Conservation or the Lough Swilly Special

Protection Area, in view of the sites' conservation objectives, by reason of the open nature of the east site boundary that allows for direct discharge of surface waters containing suspended solids and/or pollutants to the Special Area of Conservation.

- 5.2.4. PA ref. 00/6523 – in February 2001, the planning authority granted permission for a transport yard, a maintenance garage, storage and admin. buildings, a weighbridge, and septic tank etc. This permission was amended in June 2003 (PA ref. 03/6125).

6.0 Policy Context

6.1. County Donegal Development Plan 2024-2030

- 6.1.1. The Donegal 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).
- 6.1.2. Variation No. 1 of the Plan came into effect on 27th July 2026. It too is subject to review by the OPR and the Minister may in turn decide to issue a draft Direction on same.
- 6.1.3. The referral site is located within an Area of High Scenic Amenity (Map 11.1).
- 6.1.4. The following sections are relevant to the proposed development:
- 5.3 – Amendments to the Letterkenny Plan and associated LUZ Map
 - 11.2 – Landscape

6.2. Letterkenny Plan and Local Transport Plan 2023-2029

- 6.2.1. The Letterkenny Plan and Local Transport Plan 2023-2029, a statutory local area plan (LAP), came into effect on 3rd January 2024. The LAP was subject to various amendments contained in Variation No. 1 of the Development Plan as noted above.
- 6.2.2. The northern half of the referral site is zoned 'general employment' with an objective to reserve land for commercial, industrial and non-retail purposes¹ and car sales. The southern half of the referral site is zoned 'established development' with an objective

¹ Footnote 4 of the LAP states that the provision of services ancillary to industry and business including day to day facilities such as childcare facilities and cafes will be acceptable in principle whilst proposals for retail uses that are ancillary to a permitted zoned use may be acceptable in principle, subject to the details set out in the land-use zoning matrix etc.

to conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement, including new residential development, subject to all relevant material planning considerations etc. The southwestern corner of the latter zoning is traversed by a section of the 'TEN-T PRIPD' route corridor with the addition objective to provide for the development of the TEN-T Priority Route Improvement Project in Co. Donegal.

6.3. Natural Heritage Designations

6.3.1. Relevant designation(s):

- Lough Swilly SAC (002287) – 0 metres / adjoins referral site to east
- Lough Swilly SPA (004075) – 20 metres east
- Lough Swilly incl. Big Isle, Blanket Nook & Inch Lake pNHA (000166) – overlaps
- River Swilly Valley Woods pNHA (002011) – 1.2km west, southwest

7.0 The Referral

7.1. Referrer's Case

7.1.1. The referrer's case can be summarised as follows:

Irrational

- Submits that there is no justification as to how the development does not fall within the exempted development provisions under Class 37.
- Notes that the local authority sponsored the activities which it now claims is unauthorised development.

Not properly reasoned

- Submits that the decision does not state why Appropriate Assessment is required and whilst it refers vaguely to environmental impacts it does not specify how these impacts are considered, measured or estimated.
- States that the local authority does not provide a suitably reasoned decision and refers to *Connelly v An Bord Pleanála* [2018] IESC 31 in this regard.

7.2. Planning Authority Response

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

- Refers to the position set out in the Planner's Report.
- States that the planning authority had regard to the location of the motorsports event adjacent to Lough Swilly SAC and SPA and considered that there was potential for significant adverse effects on qualifying interests, particularly otter.
- States that the last event was monitored by the planning authority and it considers that the numbers in attendance at the event were in excess of 5,000 people.
- Suggests that the event falls within the category of a prescribed outdoor event and an event license is required in accordance with Article 183 of the Planning Regulations with any future license application needing an ecological report or NIS.

7.3. Owner / Occupier's Response

7.3.1. A response has been received from John Barry on behalf of Barry Fuels Ltd., the owner/occupiers of the referral site. It can be summarised as follows:

- Submits that it was their understanding that the event was exempted development but notes that this is not the planning authority position following a S. 5 declaration.
- Will rely on the Commission to adjudicate on the matter.

8.0 Statutory Provisions

8.1. Overview

8.1.1. Relevant provisions:

- Planning and Development Act 2000, as amended ('2000 Act'),
- Planning and Development Regulations 2001, as amended ('2001 Regulations'),
- Planning and Development Act 2024, as amended ('2024 Act'), and
- Planning and Development (Licensing of Outdoor Events) Regulations 2026.

8.2. Planning and Development Act 2000

Section 2

8.2.1. Section 2(1) provides the following interpretations which are relevant:

“alteration” includes—

- (a) plastering or painting or the removal of plaster or stucco, or
- (b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

“exempted development” has the meaning specified in section 4;

“structure” means *inter alia* any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and where the context so admits, includes the land on, in or under which the structure is situate etc.; and

“unauthorised development” means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

“unauthorised structure” means a structure other than—

- (a) a structure which was in existence on 1 October 1964, or
- (b) a structure, the construction, erection or making of which was the subject of a permission for development granted etc., or which exists as a result of the carrying out of exempted development etc.;

“unauthorised use” means, in relation to land, use commenced on or after 1 October 1964, being a use which is a material change in use of any structure or other land and being development other than—

- (a) exempted development etc., or

(b) development which is the subject of a permission granted etc., and which is carried out in compliance with that permission or any condition to which that permission is subject;

“unauthorised works” means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—

(a) exempted development etc., or

(b) development which is the subject of a permission granted etc., and which is carried out in compliance with that permission or any condition to which that permission is subject;

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon; and

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal etc.

Section 3

8.2.2. Except where otherwise required, Section 3(1)(a) defines “development” as:

The carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

Section 4

8.2.3. Section 4(1) provides a list of statutory exemptions. Section 4(4) provides development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

Section 5

8.2.4. Section 5(1) provides that if any question arises as to what, in any particular case, is or is not development or is or is not exempted development, any person may request in writing from the relevant planning authority a declaration on that question. Section 5(3)(a) provides for a review by referral within 4 weeks of the date of the declaration.

Section 177U

8.2.5. Section 177U(9) provides that in deciding a referral under Section 5, a screening for AA shall be conducted in accordance with the provisions Section 177U of the Act.

Section 229

- 8.2.6. Section 229 defined an event as a public performance etc. which is comprised of music, dancing, displays of public entertainment or any activity of a like kind etc.

Section 240

- 8.2.7. Section 240 provided that the holding of an event, and works relating to the holding of that event, was not construed as development for the purposes of the 2000 Act. I note that it, along with all of Part XVI of the 2000 Act was repealed on 9th September 2026.

8.3. Planning and Development Regulations 2001

Article 3

- 8.3.1. Article 3(3) provides the following interpretation which is relevant:

“motor vehicle” means a mechanically propelled vehicle for the purposes of the Road Traffic Act, 1961 (No. 24 of 1961).

Article 6

- 8.3.2. Subject to the restrictions in Article 9, Article 6(1) provides for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Sch. 2, subject, where applicable, to the conditions and limitations opposite such classes as set out in column 2.

- 8.3.3. Schedule 2, Part 1, Class 37 is relevant:

<i>Column 1</i>	<i>Column 2</i>
<i>Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use.</i>	<i>1. The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year. 2. On the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.</i>

Article 9

- 8.3.4. Article 9 imposes specific restrictions on development of classes specified in Parts 1, 2 and 3 of Schedule 2 and in effect de-exempts certain classes of development that

would be exempt under normal circumstances. The restrictions under Article 9(1)(a) apply if the carrying out of such development would *inter alia*:

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(viiB) comprise development [etc.] and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

Article 93

- 8.3.5. Article 93 states that the prescribed classes of development for the purposes of Section 176 of the Act are set out in Schedule 5 i.e., development requiring EIA.

Article 183

- 8.3.6. Article 183 provided that an event at which the audience comprises 5,000 or more people shall be an event prescribed for the purposes of Section 230 of the Act. It, along with all of Part 16 of the Regulations, was revoked on 9th September 2024.

8.4. Planning and Development Act 2024

- 8.4.1. Section 476 of the 2024 Act restates the definitions in Section 229 of the 2000 Act.
- 8.4.2. Section 492 of the 2024 Act restates Section 240 of the 2000 Act and provides that the holding of that event is not construed as development for the purposes of the Act.

8.5. Planning and Development (Licensing of Outdoor Events) Regulations 2026

- 8.5.1. Regulation 3 provides that an event at which the audience comprises 5,000 or more people shall be an event prescribed for the purposes of Section 479 of the 2024 Act.
- 8.5.2. Regulation 2 defines “audience” as persons attending an event (including by invitation) on a particular day, other than persons working or performing at the event etc.

9.0 Precedent Decisions

9.1. Precedent Referral Cases

Licensable Events

- 9.1.1. Under case ref. RL2998, it was considered whether a weekend music and campervan festival at Bellurgan Park, Bellurgan, Co. Louth was / was not development or was / was not exempted development. It was concluded that the activities constituted an event as defined by Section 229 of the 2000 Act and in accordance with Section 240 of the 2000 Act, the holding of an event to which Part XVI of the 2000 Act applies shall not be construed as development within the meaning of the Act. It was thus decided the weekend music and campervan festival at Bellurgan Park was not development.
- 9.1.2. Under case ref. ABP-304918-19, it was considered whether the staging of a one-day music festival in Mondello Park, Naas, Co. Kildare was / was not development or was / was not exempted development. It was concluded that the activities constituted an event as defined by Section 229 of the 2000 Act and in accordance with Section 240 of the 2000 Act, the holding of an event to which Part XVI of the 2000 Act applies shall not be construed as development within the meaning of the Act. It was therefore decided that the staging of a one-day music festival at Mondello was not development.
- 9.1.3. However, I note that in an earlier case at that site, ref. RF0843, it was concluded that the holding of one-day musical events would constitute a material change in the permitted use of the land, and on the basis of the submissions made in connection with the case, it was not established that the use of Mondello for the holding of one-day musical events would constitute a local event in the context of Class 33 of the then 1994 Regulations. It was thus decided that the use of Mondello Park for the holding of one-day musical events was development and was not exempted development.

Local Events

- 9.1.4. Under case ref. RF0950, it was considered whether the use of lands at Fairyhouse Racecourse, Ratoath, Co. Meath for the holding of a two-day music festival was / was not development or was / was not exempted development. It was concluded that on the basis of the submissions made in connection with the case, it was not established that the use of the said lands for the holding of a two-day music festival would

constitute a local event in the context of Class 33 of the then 1994 Regulations. It was therefore decided that use was development and was not exempted development.

Local Events, Not Licensable

- 9.1.5. Under case ref. RL3588, it was considered that the whether the use of the top level at St. Stephen's Green Shopping Centre Car Park as a temporary outdoor movie theatre, with capacity for no more than 350 patrons per screening etc. and not used for this purpose either continuously for a period exceeding 15 days or occasionally for periods exceeding an aggregate 30 days in any year, was / was not development, and was / was not exempted development. It was concluded that the use constitutes a change of use which would raise material planning issues, including impact on traffic in the area etc., and was therefore a material change of use. Having regard to the scale of the development, including the number of patrons outlined, the development would not come within the scope of the provisions of an event for which licensing is required pursuant to Article 183 of the 2001 Regulations and therefore would not come within the scope of Part XVI of the 2000 Act, nor would it come within the scope of Class 37 of the 2001 Regulations as it was not demonstrated that the event in question was a local event. It was therefore considered development and not exempted development.

Motorsports Events

- 9.1.6. Under case ref. RL2555, it was considered whether the use of agricultural lands for six motorsports events per calendar year in Mallow, Co. Cork was / was not development or was / was not exempted development. It was concluded that the events would constitute a material change of use and on the basis of the submissions, it was not established that the use would constitute a local event in the context of Class 37 of the 2001 Regulations. It was further concluded that the restrictions under Article 9(1)(a)(iii) would apply having regard to the traffic generation and in particular obstruction of road users. It was thus decided that the use of agricultural lands for six motor sports events per year was development and was not exempted development.

Motorsports Events, De-exemption – European sites, EIA etc.

- 9.1.7. Under case ref. ABP-303550-19, it was considered *inter alia* whether the laying out and use of the land for car drifting events and whether the use of the existing structures related to such events at Weir Island, Carrigtwohill, Co. Cork was / was not development or was / was not exempted development. It was concluded that laying

out and use of these lands for car drifting is a change of use that raises planning issues that are materially different from its established use and is therefore development, in addition to the works entailed in the laying out of the land for such purposes. It was further concluded that the car drifting use is dependent upon the layout of the land which comprises unauthorised structures and therefore falls outside the scope of the Class 37 exemption. Significantly, it was also concluded that the use is dependent upon the layout of the land as a motor park with implications for EIA and AA and thus the development was not exempted development under Section 4(4) of the Act. It was therefore decided that the use was development and not exempted development.

9.2. Precedent Legal Judgements

Reformulation of Referral Question

- 9.2.1. In *Roadstone Provinces Ltd v An Bord Pleanála* [2008] IEHC 210, the High Court considered that the Board is entitled to reformulate questions posed where necessary. In this instance, Finlay Geoghegan J. noted at para. 31 that the Planning Inspector was critical of the content of the referral, having regard to Section 127 of the Act, and that the Inspector summarised the questions which she considered she could extract.

Change of Use

- 9.2.2. In *Earl of Mountcharles v Meath County Council* [1997] 1 ILRM, the courts held that the staging of a music concert on the site had not become part of the normal use of that site because the activity was not sufficiently recurrent, nor did it account for a sufficiently substantial part of the total amount of the activity taking place on the land.
- 9.2.3. In *Butler v Dublin Corporation* [1999] 1 ILRM, the courts indicated that a fleeting change in use of lands (such as that involved in a one or two-day pop concert) would not represent a material change in use such as to trigger a requirement to obtain planning permission and notwithstanding the judgement in *Earl of Mountcharles* etc.

Material Change of Use

- 9.2.4. In *Roadstone Provinces Ltd v An Bord Pleanála* [2008] IEHC 2010, the courts approved the decision in *Galway Co Co v Lackagh Rock* (cited below) and concluded that the Board would have to consider that there had been a change in use before looking at planning considerations to determine the materiality of the identified change.

- 9.2.5. In *Monaghan County Council v Brogan* [1987] IR 333, the courts confirmed that the term “material” means material in planning terms, that is whether the issues raised by the change of use would raise matters normally considered by a planning authority if it were dealing with an application for permission, i.e., residential amenity, traffic safety or policy issues in relation to statutory plans. This decision was confirmed in *Westmeath Co Co v Quirke & Sons* (unreported, 23 May 1996), where consideration of the materiality of a change in use means not only the use itself but also its effects.
- 9.2.6. In *Galway Co Co v Lackagh Rock Ltd* [1985] IR 120, the courts concluded that in determining whether or not a present use was materially different to a previous use, regard must be had to matters of planning concern arising from the previous use when compared with the present use. If these matters were materially different than the nature of the present use, it must be equally materially different in planning terms.
- 9.2.7. In *Stanley v An Bord Pleanála* [2022] IEHC 177, the courts refused a challenge to the validity of the Board’s determination that a change of use was ‘material’ and affirmed the authorities under *Galway Co Co*, *Monaghan Co Co* and *Roadstone Provinces*.

Improvement of a structure etc.

- 9.2.8. In *Michael Cronin (Readymix) Ltd v An Bord Pleanála and Others* [2017] IESC 36, [2017] 2 IR 658, the Supreme Court considered whether an extension to a structure (a concrete yard within a quarry) constituted exempted development. The court agreed with the Board’s submission that the exemption under Section 4(1)(h) of the Act applies to a limited category of works that amount to alterations (with the concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are insignificant. An “improvement”, for the purposes of an exemption, must be something that relates to the internal use and function of the structure, resulting in either no externally noticeable difference or an insignificant difference.

Restrictions on Exempted Development

- 9.2.9. In *Leitrim County Council v Dromaprop Ltd.* [2024] IEHC 233, Humphreys J. concluded that the change of use was not de-exempted by a previous condition, as reference to contravention of a condition “does not include reference to a condition whose only relevance is merely that non-compliance is inherent in the very action being permitted.”

10.0 Assessment

10.1. Preliminary Points

- 10.1.1. As noted above, the referrer has outlined the activities and operations in detail in the Section 5 Application form submitted to the planning authority, along with a number of supplementary questions and supporting documentation, including maps and photos.
- 10.1.2. The planning authority in turn distilled this information into one succinct question, namely whether the carrying out of motorsport events on an occasional basis no more than 29 days aggregate in any one calendar year with no event lasting more than 4 days with less than 5,000 participants / spectators is / is not development and is / is not exempted development. The referrer's concerns relate to the reasons for the planning authority's decision rather than the reformulation of the referred questions.
- 10.1.3. Additionally, having regard the nature of the activities, which partly take place on the 70 by 30 metre concrete hardstand to the north of the Lough Swilly Test Centre, it is important for the Commission to consider any works carried out to facilitate the use.

The Question

- 10.1.4. Consistent with the *Roadstone*² judgement, I am considering the referred question as:
- Whether the laying out and use of land for motorsports events on an occasional basis (no more than 29 days aggregate in any one calendar year with no event lasting more than 4 days) is or is not development and is or is not exempted development.*

10.2. Is or Is Not development

- 10.2.1. The primary question to be answered in this case is whether or not the use of land for occasional motorsports events constitutes development. Whilst it appears to be common case between the parties that the activities described is development, I note the suggestion in the planning authority's referral response that the events are licensable in accordance with Article 183 of the 2001 Regulations as their observed attendance at the last event exceeded 5,000 people. The implication for this statement is of course that the events are not development as per Section 492 of the 2024 Act.

² [2008] IEHC 210

Licensable Events

- 10.2.2. It is important in the first instance therefore to consider whether the motorsports events are licensable events expressly excluded from planning control. The precedent cases outlined above generally refer to music events where regard was had to Section 229 of the 2000 Act. Those provisions are restated in Section 476 of the 2024 Act which was commenced on 9th September 2026. An event is therefore defined as a public performance that takes place wholly or mainly in the open air etc. and is comprised of music, dancing, displays of public entertainment or any activity of a like kind. Whilst the events could be construed as displays of public entertainment, and I acknowledge the planning authority's comments regarding recent attendances, the question posed expressly limits the number of participants / spectators to below the 5,000 threshold.
- 10.2.3. In such circumstances and having particular regard to the St. Stephen's Green Shopping Centre Car Park case, as summarised above, the Commission may want to come to a conclusion on this aspect of the question prior to considering whether a change of use has occurred. On the facts presented, including the number of participants / spectators outlined, I do not consider the events currently fall within licensing control and the onus of proof rests with the planning authority in this regard.

Change of Use

- 10.2.4. Given the volume of persons anticipated (stated as no more than 5,000) over a relatively condensed period of time (no more than 4 days) and notwithstanding such occasional usage (29 days aggregate per year), I consider that the additional traffic generation alone is materially different than that currently observable at the site and in the surrounding area. Such traffic would be sufficiently recurrent in that period and the event represents a sufficiently substantial part of the total amount of the activity taking place on the land to render a distinction between it and its current normal use³.
- 10.2.5. Moreover, I agree with the Planner's Report that the character, volume and frequency of noise from the event itself is also relevant. In this regard, I note that a noise nuisance is considered as a noise which is so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person⁴. The activity of diffing, which is in essence the spinning of

³ See *Earl of Mountcharles v Meath County Council* and *Butler v Dublin Corporation*

⁴ Section 108 of the Environmental Protection Agency Act 1992, as amended.

motor vehicles within confined circles (doughnuts), could be construed as a visceral nuisance given the intensity of revving, breaking and associated squealing of car tyres.

- 10.2.6. Given the recurrent issues associated with traffic and noise from the events, I am satisfied that a material change of use has occurred as outlined in the various legal authorities cited above and affirmed in recent times in *Stanley v An Bord Pleanála*⁵.

Works

- 10.2.7. Whilst not expressly included in the referrer's formulation of the question, it is clear from the supporting material and my site visit that the events are partly dependent on the concrete hardstand area to the north of the Lough Swilly Test Centre. This flat smooth surface is where some of the competitions associated with the motorsports events appear to take place. Significant amounts of tyre debris connected with the use was evident around the perimeter of this area during my site visit and I note that tyre burnout appears to be a common occurrence at such events. This also results in significant plumes of smoke as illustrated in 'Photo E – Spectators' of the submission.
- 10.2.8. Publicly available aerial imagery indicates that the hardstand area was laid out some time between June 2021 and April 2022. The referrer has also included a photograph, albeit undated, of the hardstand area during the final stage of construction where two concrete mixer trucks and three ride-on power floats are shown (see 'Photo C – Slab').
- 10.2.9. These operations are considered works and clearly are development as so defined.

Conclusion on Development

- 10.2.10. The use of the lands for motorsports events as described in the referral documents represents a material change of use being development under Section 3 of the Act.
- 10.2.11. The works to facilitate such use to the north of the Lough Swilly Test Centre is also development. The use is dependent on, and indivisible from the works at this location.

10.3. Is or Is Not Exempted Development

- 10.3.1. It is the referrer's case that the development in question is exempted development under Class 37 of Part 1 of Schedule 2 of the 2001 Regulations. As noted above, this provision exempts development consisting of *inter alia* the use of land for any local

⁵ [2022] IEHC 177

event of a sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use.

Condition and Limitation No. 1

- 10.3.2. The exemption is subject to two conditions and limitations. The first being that the land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year. I note that compliance with this is inferred by the formulation of the question.

Condition and Limitation No. 2

- 10.3.3. Secondly, on the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act. Having reviewed the planning history of the referral site, I do not fully agree with the comment in the Planner's Report that the existing form of the land has resulted from authorised development. Whilst it may be the case for the southern half of the referral site with history for a transport yard dating back to February 2001, it is not the case to the north.
- 10.3.4. The concrete hardstand to the north of the Lough Swilly Test Centre would appear to me to be an unauthorised structure and I therefore consider that the same principles under ABP-303550-19 regarding car drifting events in Carrigtwohill, Co. Cork, would apply to the present case. The Commission may wish to seek further information from the planning authority and referrer regarding the lawfulness of the concrete slab, but it appears to me at least not to correspond to any relevant permission, not least that granted in June 2024 (PA ref. 24/60379), around two years after the concrete was laid.

Other Exemptions

- 10.3.5. Nor does the concrete hardstand appear to be exempted development in its own right under any other class of development outlined in the 2001 Regulations or under the 2000 Act. In relation to the latter, I specifically note the judgement in *Michael Cronin (Readymix)*⁶ which considered that S 4(1)(h) of the Act applies to a limited category of works that amount to alterations (with the concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are insignificant etc.

⁶ [2017] IESC 36, [2017] 2 IR 658

General Comments

- 10.3.6. Irrespective of the conditions and limitations associated with the Class 37 exemption, it is my considered opinion that the use of the land, including that beyond the concrete slab, for the motorsports events described in the submissions is not of a 'local' nature within the meaning of Class 37. In the absence of a statutory definition, I defer to the Oxford English Dictionary which defines local as 'relating to a particular area' etc. As the events draws attendance from a wider area and are often associated with the Donegal International Rally festival, I do not consider them to be of a local nature. This is consistent with established precedent as outlined above but I do accept that a 'local event' could also be construed as local in a geographic as opposed to audience sense.

Conclusion on Exempted Development

- 10.3.7. The use of the lands for motorsports events as described in the referral documents represents a material change of use; is development and not exempted development.
- 10.3.8. Some of the works to facilitate such use, namely the laying of a concrete slab, is not exempted development and whilst it does not form part of the referral question, it is important to consider in the context of condition and limitation number 2 of Class 37.

10.4. Restrictions on Exempted Development

- 10.4.1. As noted, Article 9 of the Regulations in effect de-exempts certain classes of development that would be exempt under normal circumstances. The de-exemption can be triggered if the development contravenes a condition attached to a permission; would endanger public safety by reason of traffic hazard etc.; would require appropriate assessment (AA) as it would likely have a significant effect on a European site; or would consist of or comprise the alteration of an unauthorised structure etc.
- 10.4.2. Section 4(4) of the 2000 Act also de-exempts the exemptions made under the Regulations if environmental impact assessment or AA of the development is required.

Contravention of a Condition

- 10.4.3. As noted, the laying and use of the concrete hardstand to the north of the Lough Swilly Test Centre for the referred events pre-dates the permission granted under PA ref. 24/60379 for a warehouse storage building at that location. It does not therefore appear to contravene a condition thereof and in this regard, it is important to note the

comments of Humphreys J. in *Dromaprop Ltd.*, i.e., 'it does not include reference to a condition whose only relevance is merely that non-compliance is inherent in the very action being permitted'. Therefore, Article 9(1)(a)(i) would not apply in this instance.

Traffic Hazard

10.4.4. Article 9(1)(a)(iii) of the 2001 Regulations de-exempts any class of development that would endanger public safety by reason of traffic hazard or obstruction of road users.

10.4.5. Having regard to the access arrangements via Bonagee Lane, a cul-de-sac off the N56 between the Dry Arch and Polestar roundabouts, and the documented traffic issues associated with this approach to Letterkenny, and given the sheer volume of traffic linked with the event, it appears to me that Article 9(1)(a)(iii) applies in this case.

Alteration of an Unauthorised Structure

10.4.6. As noted, I am of the view that the 70 by 30 metre concrete hardstand to the north of the Lough Swilly Test Centre was laid out in the absence of relevant permission or exemption and is therefore an unauthorised structure. Whilst the enforcement of planning control is matter for the planning authority, the relevance of drawing a conclusion in respect of it is critical nonetheless when considering Article 9(1)(a)(viii).

10.4.7. Given the alterations to the hardstand during the course of the events, including the placement of concrete barriers around the perimeter, I consider that Article 9(1)(a)(viii) can reasonably be applied to this aspect of the events. I do, however, accept that the handstand to the south of the referral site appears to be an authorised structure.

Conclusion on Restrictions on Exempted Development

10.4.8. Notwithstanding my conclusions above, if the development did fall within the scope of the Class 37 exemption, it would be de-exempted by virtue of Article 9(1)(a)(iii) in respect of traffic etc and Article 9(1)(a)(viii) in respect of the unauthorised structure.

10.4.9. Additionally, and for the reasons set out in Section 10, I agree with the planning authority that the restrictions under Article 9(1)(a)(viiB) of the Regulations and Section 4(4) of the 2000 Act apply insofar as the events would require AA because of a likelihood of having significant effects on the integrity of a European site (Appendix 1).

10.4.10. In similar regard, the motorsports events are dependent upon the layout of the land as a motor track (i.e., the hardstand areas) which requires EIA (see Appendix 2). The provisions of Section 4(4) of the 2000 Act thus also apply insofar as EIA is required.

11.0 AA Screening

11.1. In accordance with Section 177U(9) of the Planning and Development Act 2000, as amended, and on the basis of the information considered in this AA screening (see Appendix 1), I conclude that the referred question, as reformulated, individually or in combination with other plans or projects would be likely to give rise to significant effects on Lough Swilly SAC and Lough Swilly SPA in view of the sites Conservation Objectives, and AA (and submission of a NIS) is therefore required.

11.2. This determination is based on:

- The immediate proximity to the adjacent European sites and impact mechanisms associated with the motorsports events that could significantly affect a such sites,
- Higher-scale potential for source impacts of magnitude including those directly from noise and smoke and indirectly from hydrocarbons, dust and tyre debris,
- Consideration of the conservation objectives of:
Lough Swilly SAC (site code 002287)
Lough Swilly SPA (site code 004075)

12.0 Recommendation

12.1. I recommend that this referral is decided in accordance with the following Draft Order.

WHEREAS a question has arisen as to whether the laying out and use of land for motorsports events on an occasional basis (no more than 29 days aggregate in any one calendar year with no event lasting more than 4 days) at Bonagee, Letterkenny, County Donegal is or is not development or is or is not exempted development:

AND WHEREAS Elliott Coffey requested a declaration on this question from Donegal County Council and the Council issued a declaration on the 12th day

of May, 2026 stating that the proposal is development and is not exempted development:

AND WHEREAS Elliott Coffey referred this declaration for review to An Coimisiún Pleanála on the 8th day of June, 2026:

AND WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly to—

- (a) the nature, scale, extent and scope of the use and the works to facilitate the use,
- (b) the existing and past site context,
- (c) Sections 2, 3, 4, 5 and 177U of the Planning and Development Act, 2000, as amended,
- (d) Sections 476 and 492 of the Planning and Development Act, 2024, as amended,
- (e) Articles 3, 6, 9 and 93 of the Planning and Development Regulations, 2001, as amended,
- (f) Class 37 of Part 1 of Schedule 2 and Class 11(a) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended,
- (g) Regulations 2 and 3 of the Planning and Development (Licensing of Outdoor Events) Regulations, 2026,
- (h) the planning history of the referral site, and specifically the permission granted under PA refs. 00/6523, 23/50427 and 24/60379,
- (i) relevant precedent referrals and judgements,
- (j) the pattern of development in the area, and
- (k) the provisions of the Donegal County Development Plan 2024-2030, as varied, and the provisions of the Letterkenny Plan and Local Transport Plan 2023-2029, as varied, as they apply to the referral site:

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) Having regard to the scale of the motorsports events, including the number of participants / spectators outlined in the referral documents, the events would not currently come within the scope of the provisions of an event for which licensing is required, pursuant to Regulation 3 of the Planning and Development (Licensing of Outdoor Events) Regulations, 2026, and therefore would not come within the scope of Part 16 of the Planning and Development Act, 2024, as amended;
- (b) The laying out and use of the lands for occasional motorsport events would constitute a material change in the use of the land, would come within the scope of Section 3 of the Planning and Development Act, 2000, as amended, and would constitute development;
- (c) Whilst the occasional basis of no more than 29 days aggregate in any one calendar year with no event lasting more than 4 days would comply with the first condition / limitation, it has not been established on the basis of the submissions made with the referral, that the laying out and use of these lands for motorsports events would constitute a local event in the context of Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
- (d) The use of these lands for motorsports events is dependent upon the layout of the land, which includes an unauthorised structure. Accordingly, the use is not within the scope of Class 37 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, as it would not comply with the second condition / limitation to which this class is subject, and is not exempted development;
- (e) Furthermore, the restrictions on exemption provided for in Articles 9(1)(a)(iii) and 9(1)(a)(viii) would apply having regard to the traffic generation, and in particular obstruction of road users, and the evident alterations to the unauthorised structure to facilitate the events;

- (f) The use of these lands for motorsports events is dependent upon the layout of the land as a motor track which lies beside the Natura 2000 sites of Lough Swilly SAC and Lough Swilly SPA. The impacts of the said use are such that it requires to be the subject of an Appropriate Assessment. Under Section 4(4) of the Planning and Development Act, 2000, as amended, it is thereby not exempted development; and
- (g) The use of these lands for motorsports events is dependent upon the layout of the land as a motor track and so it requires to be the subject of an Environmental Impact Assessment. Under Section 4(4) of the Planning and Development Act, 2000, as amended, it is thereby not exempted development.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by Section 5 of the 2000 Act, as amended, hereby decides that the laying out and use of land for motorsports events on an occasional basis (no more than 29 days aggregate in any one calendar year with no event lasting more than 4 days) at Bonagee, Letterkenny, County Donegal is development and is not exempted development.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Philip Maguire

Inspectorate

30th September 2026

Appendix 1 (AA – Stage 1)

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Motorsports events etc.
Brief description of development site characteristics and potential impact mechanisms	Flat, low-lying and mostly brownfield lands located near the banks of the River Swilly and accessed via Bonagee Lane, a cul-de-sac off the N56, east of Letterkenny town centre in County Donegal. The southern part of the referral site encompasses part of a yard area associated with Tinney's Coal & Oil. A relevant layout drawing under PA ref. 23/50427 shows surface water from this hardstand area draining to the open burn / stream via sluiced outfall following oil interceptor. The northern part of the referral site lies to the north of the Lough Swilly Test Centre and includes a concrete slab surrounded by undeveloped grassland to the north and east. No surface water drains evident on this slabbed area and runoff appears to infiltrate to ground / overtop to open stream / burn. The eastern boundary at this location directly adjoins the open burn / stream as does part of the western boundary to the west of Bonagee Lane. Other boundaries are defined by a mix of palisade and post and wire fencing. Habitats can be classified as buildings and artificial surfaces (BL3), improved agricultural grassland (GA1) and earth bank (BL3). Impact mechanisms include noise and smoke, from tyre burnout, and hydrocarbons and dust.
Screening report	No
Natura Impact Statement	No
Relevant submissions	None
Additional information	LPA considered that there may be a number of potential direct / indirect impacts on Natura 2000 sites: (1) disturbance / loss of species population, and (2) the discharge of materials and effluents as waterborne into the Lough Swilly SAC/SPA.

LPA not satisfied that the development would not give rise to a risk of noise pollution or ground/surface water pollution within the site or on adjacent lands. LPA determined that an AA is required.				
Step 2: Identification of relevant European sites using the Source-pathway-receptor model				
European Site (code)	Qualifying interests¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections²	Consider further in screening³ Y/N
Lough Swilly SAC (002287)	Marine, coastal and halophytic habitats Natural and semi-natural grassland formations Forests Porpoise Otter Conservation Objectives Link (NPWS, 2026)	c. 0 metres / adjoins referral site to east	Yes, direct and indirect given the proximity i.e., via surface and ground water and via disturbance during motorsports events. NB: hardstand north of test centre is within 30m of the burn with outfall to River Swilly.	Y
Lough Swilly SPA (004075)	Wintering and breeding water birds (24x species) Wetland and waterbirds Conservation Objectives Link (NPWS, 2011)	c. 20 metres east of referral site	Yes, 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

All Conservation Objective links are up to date at the time of writing and have been cross-referenced against the Statutory Instruments, where relevant.

Section 2 of the LPA's screening states that the site does not appear to be linked to any other Natura sites by hydrology or other. Thus, a c. 5km zone of influence is reasonable.

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 *priority habitat	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Lough Swilly SAC (002287) Estuaries [1130] Coastal lagoons [1150]* Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] Harbour Porpoise <i>Phocoena phocoena</i> [1351] Otter <i>Lutra lutra</i> [1355]	Direct Localized and temporary, but higher-scale magnitude impacts from noise and smoke (particulate matter) associated with the motorsports events. Indirect: Localized and temporary, but higher-scale magnitude impacts from hydrocarbons, dust and tyre debris.	Lands adjoining the referral site are considered optimal for otter with suitable habitats for holt construction or foraging present along the River Swilly and the adjacent open stream / burn. Disturbance of otter within such habitat through noise and smoke cannot be excluded. An impact of sufficient magnitude could undermine the sites conservation objectives. A deterioration in the water quality (ground and surface) associated with an inadvertent release of dust and debris, or spillages of hydrocarbons and/or other pollutants associated with the events have the potential to cause damage to the habitats dependent on water quality. An impact of sufficient magnitude could undermine the sites conservation objectives.

	Likelihood of significant effects from proposed development (alone): Yes	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? N/a	
	Impacts	Effects
Lough Swilly SPA (004075) 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] Goldeneye <i>Bucephala clangula</i> [A067] Red-breasted Merganser <i>Mergus serrator</i> [A069] Coot <i>Fulica atra</i> [A125] Oystercatcher <i>Haematopus ostralegus</i> [A130] Knot <i>Calidris canutus</i> [A143] Dunlin <i>Calidris alpina</i> [A149]	Direct: As above. Indirect: As above.	As above in the case of the listed SCI species – with the addition of disturbance from general anthropogenic impacts during the motorsports events. An impact of sufficient magnitude could undermine the sites conservation objectives.

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]		
	Likelihood of significant effects from proposed development (alone): Yes	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? N/a	
Further Commentary / discussion (only where necessary)		
Section 3 of the LPA's screening considers that there is potential for direct impact on otters and wintering waterfowl from noise pollution and potential for indirect impact on wider species population from ground and surface water pollution (fuel spills). Contamination of the water environment and adverse impacts on freshwater biology due to spillages / accidental leaks of fuel is also considered possible in Section 3 of the LPA's screening.		

As noted, I concur with the planning authority that the proposal has the potential to cause localised impacts to water quality of the SAC and SPA, I also consider there is potential to directly and indirectly impact on otter and SCI bird species given the site's proximity.

Having reviewed the NBDC records, where otter and 5 no. SCI birds were recorded in the 2km grid square around the referral site (C11V), impacts cannot be summarily dismissed. Whilst I note the concerns raised in the context of *Connelly v An Bord Pleanála*, the onus of proof as to an inadequacy in the decision cannot be discharged by mere assertion⁷.

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

Based on the information provided in the LPA screening determination; my site inspection; and a review of the conservation objectives and supporting documents and resources, including the NBDC records, and in the absence of any documentary evidence to demonstrate otherwise beyond reasonable scientific doubt, I consider that the laying out and use of the subject lands for motorsports events has the potential to result in significant effects on Lough Swilly SAC and SPA in view of those sites conservation objectives.

Screening Determination

Finding of potential significant effects

In accordance with Section 177U(9) 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 referred question, as reformulated, individually or in combination with other plans or projects would be likely to give rise to significant effects on Lough Swilly SAC and Lough Swilly SPA in view of the sites Conservation Objectives, and AA (and submission of a NIS) is therefore required.

This determination is based on:

- The immediate proximity to the adjacent European sites and impact mechanisms associated with the motorsports events that could significantly affect such sites,
- Higher-scale potential for source impacts of magnitude including those directly from noise and smoke and indirectly from hydrocarbons, dust and tyre debris,
- Consideration of the conservation objectives of:

Lough Swilly SAC (site code 002287)
Lough Swilly SPA (site code 004075)

⁷ See para. 48 (v) of *Sheila Hootor & Others v An Coimisiún Pleanála* [2026] IEHC 65

Appendix 2 (EIA Screening)

Form 1 – EIA Pre-Screening

Case Reference	ACP-324352- 26
Proposed Development Summary	Motorsports events etc.
Development Address	Tinneys Coal, Bonagee, 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)	☒ 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.	
☒ 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 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	Class 11(a) of Part 2 of Schedule 5 relates to 'all permanent racing and test tracks for motorised vehicles'. Whilst the referred events / use is occasional in nature (no more than 29 days aggregate in any one calendar year / no event lasting more than 4 days), the hardstanding areas to facilitate such events / use, including the concrete slab to north of the referral site, are permanent and must therefore be considered a permanent test track for motorised vehicles.
☐ 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)	

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: _____

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