



An
Bord
Pleanála

Inspector's Report

ABP-321876-25

Development	Construction of 92 houses and a creche with all associated site works. An NIS was submitted with Further Information.
Location	Friars Court, Laghtadawannagh, Killala Road, Ballina, Co. Mayo.
Planning Authority	Mayo County Council.
Planning Authority Reg. Ref.	2460153.
Applicant(s)	Thawside Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Friarscourt Residents Association.
Observer(s)	None.
Date of Site Inspection	9 th May 2025.
Inspector	Ciarán Daly

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	8
5.0 Policy Context.....	9
5.1. Development Plan.....	9
5.2. Local Area Plan.....	15
5.3. Local Transport Plan	17
5.4. National Planning Framework	17
5.5. Regional Strategy.....	158
5.6. National Guidelines	18
5.7. Natural Heritage Designations	19
6.0 The Appeal	19
6.1. Grounds of Appeal	19
6.2. Applicant Response	20
6.3. Planning Authority Response	24
7.0 Assessment	24
8.0 EIA Screening.....	34
9.0 Appropriate Assessment.....	36

10.0	Conclusion	37
11.0	Recommendation	37
12.0	Reasons and Considerations	37
Appendix 1 – Form 1: EIA Pre-Screening		
Appendix 2 – Form 2: EIA Pre-liminary Examination		
Appendix 3 – Form 3: AA Screening		
Appendix 4 – Form 4: Appropriate Assessment and AA Determination Form		

1.0 Site Location and Description

- 1.1. The subject greenfield site on the north-east edge of Ballina is adjacent to Friarscourt, a residential housing development of two storey and single storey mainly semi-detached dwellings. The site includes lands covered with spoil heaps of what appears to be gravel and other natural material at significant heights which have been partly colonised by grass, gorse and other plants. The areas of largest height are in the northern area of the site.
- 1.2. The remainder of the lands covered mainly in stone and gravel include some level areas mainly in the southern area of the site and some scrub and in the vicinity of adjacent river to the west there is some grass and /bushes. The site is surrounded by further hardstanding/stone areas to the south and north and by grass fields further north, west and south past the adjacent stream. The Sruffaunbrogue stream runs adjacent to the western site boundary. Leigue cemetery is located a short distance to the south.
- 1.3. Access is proposed via the adjacent Friarscourt housing estate which is accessed from the R314 regional road which leads into Ballina town centre which is c1.2km to the south.

2.0 Proposed Development

- 2.1. The proposed development, in summary, consists of the following:
 - 92 no. houses comprising 40 no. three bed semi-detached dwellings, 10 no. two bed semi-detached dwellings, 26 no. detached 4 bed dwellings and 16 no. three bed terraced dwellings and a creche.

The proposed development was revised by way of significant further information which reduced the total number of units to 86, included a creche and new house types, landscaping and boundary proposals, the removal of the temporary construction access and DMURS road layout proposals.

3.0 Planning Authority Decision

3.1. Decision

Mayo County Council initially requested further information in relation to layout and design including lack of compliance with DMURS, the absence of a childcare facility, poorly designed public open space, connectivity and permeability with adjoining residential schemes, excessive gable depth of particular house types, nature based drainage solutions, a pre-connection report from Uisce Eireann, an archaeological assessment, lighting layout and report, an assessment under Article 6(3) of the Habitats Directive, longitudinal sections in relation to levels and infrastructure provision, a site layout of the car parking provision, revised boundary treatment plan, a programme of works and detailed construction traffic management plan and policy concerns in relation to access via Friar's Court.

The further information was deemed significant with a requirement for public notices. The Council subsequently decided to grant permission subject to 22 no. conditions.

Notable conditions include:

- Condition no.3 restricts first occupation of the units to individual purchasers.
- Condition no. 8 required the implementation of the submitted landscape proposal.
- Condition no. 10 required submission of alternative attenuation proposals for the green/open space areas in Phase 4.
- Condition no. 12 required boundary treatment plans to be submitted.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planner's Report noted a low to medium density to be appropriate with a minimum of 20 units per hectare. The report noted that part of the site is zoned 'Agriculture' in the draft Ballina Local Area Plan 2023-2029 where multiple unit residential development is not permissible. It noted that the site was at the time the subject of a material alteration of the draft LAP. This related to MA 36 which was to rezone the subject site for 'New Residential'.

The internal road widths for the scheme were considered excessive at 6m relative to DMURS. The urban design quality of the scheme was considered lacking in relation to failure to break up houses into small functional and visual groups, lack of passive surveillance of the open space, landscaping and absence of designated play areas.

When combined with the adjacent scheme, it would result in 139 new houses requiring a childcare facility. No permeability with the adjoining scheme was noted. It noted an objective of the LAP which requires new access proposals through existing residential estates to provide only pedestrian or cycle access.

The report included a recommendation to require the submission of the following:

- A DMURS compliance statement.
- A design statement detailing the design and placemaking process.
- Drainage design calculations incorporating SUDS.
- A Pre-Connection Enquiry from Uisce Éireann.
- An archaeological assessment.
- Lighting layout scheme.
- A revised site layout plan indicating a designed public open space and landscaping plan.
- Requirement for a creche.
- An assessment under Article 6(3) of the Habitats Directive.
- A revised boundary treatment plan.
- Section drawings of infrastructure connection points.
- Sections of the retaining wall and graded zone area indicating ground levels.
- A site layout plan detailing car parking provisions per CDP requirements.
- A site layout plan of the entire development including proposal to the south showing all pedestrian crossings.
- A detailed programme of works for the scheme.
- A detailed construction traffic management plan.

- Demonstration required of connectivity, permeability and active travel provision.

The second Planner's Report following the receipt of significant further information noted the revised scheme is broken up into distinct character areas and with overlooked open spaces and a play area included. It noted the construction traffic route through Friarscourt to be a consequence of the ABP refusal of permission for the adjoining development to the south in relation to construction impacts as the construction access would be located in a flood zone and would link to the local Sruffaunbrogue stream and the mitigation measures associated with preventing surface water run-off would be compromised. The report recommended permission be granted subject to conditions.

3.2.2. Other Technical Reports

- Area Engineer Ballina: Further information required.
- Water Services: No response.
- Architects: Further information required.
- Housing Central: No response.
- Road Design: No objections subject to conditions.
- Environment – Flood Risk: Further Information required.
- Archaeologist: Further Information required. No objection following receipt of F.I..

3.3. Prescribed Bodies

- Health and Safety Authority: No objection.
- Uisce Éireann: Further Information required.
- Development Applications Unit: No response received.

3.4. Third Party Observations

Two third party submissions were received, one at application stage and one following S.F.I. notification. These submissions can be summarised as follows:

- Pyrite exists within the adjacent housing development.

- The traffic survey was undertaken in November 2021 and this is unacceptable in relation to traffic safety including for children at play.
- There is traffic congestion within Friarscourt housing estate and the road infrastructure is inadequate for use of access through this estate.
- Phase 5 on the plans raises further concerns.
- Following S.F.I., the residents' health and safety concerns remain.
- Breaches of the planning regulations in relation to failure to erect site notices.
- The LAP provides only for pedestrian and cycle access connections through the estate.
- The construction traffic will exacerbate the issues in relation to pyrite in the adjoining estate.
- There is lack of capacity from the entrance on to the public road.

4.0 Planning History

Subject Site and Friarscourt Site to east

03/702432: Permission granted by the P.A. for 234 houses at Laghtadawnagh, Killala Road. It appears this permission was partially commenced with some enabling and site regrading works visible but there are no houses on the subject site.

18/1026: Permission granted by the P.A. to retain foundation and construct two semi-detached dwellings.

Sites in the vicinity

21/793: Permission granted by the P.A. and refused on appeal (ABP-315466-23) at Friar's Court (adjacent site to south) for 54 no. houses. One refusal reason related to the risk of flooding of the construction site access road and related pollution of stream in the vicinity and the effectiveness of a mitigation measure outlined in the NIS would be compromised.

5.0 Policy Context

5.1. Mayo County Development Plan 2022-2028 (the CDP)

Chapter 2 – Core Strategy

- **CSO 3:** *To adopt Local Area Plans for Ballina, Castlebar and Westport that align with the NPF, RSES and this Core Strategy. During the transition period between adoption of this County Development Plan and the adoption of the Local Area Plans for Ballina, Castlebar and Westport, the objectives (including zoning objectives), policies and standards in this County Development Plan shall apply to these towns.*
- **CSO 8:** *To monitor development for compliance with the objectives of the Core Strategy and adjust, where necessary, the approach taken to the consideration of development proposals, in order to ensure effective and reasonable alignment with national and regional policy and objectives.*

- Section 2.8.1 Settlement Hierarchy

Ballina is designated as a Tier 1 Key Town and Strategic Growth Town.

Per Core Strategy Table 2.7.7 there is a housing target of 511 for such Tier 1 (a) Key Towns.

- **SSO 13** *The land use zoning provisions of the existing town and environs development plans for Ballina, Castlebar and Westport shall continue to be implemented on an interim basis until such time as local area plans are adopted for these towns, whilst also having regard to any draft local area plan, and subject to compliance with the provisions of the Mayo County Development Plan, including the Core Strategy population/housing targets.*
- **SSO 14** *Development proposals in Ballina, Castlebar and Westport shall be assessed on an interim basis taking account of the principles of proper planning and sustainable development inter alia traffic safety, residential amenity, flood risk, cultural, natural and built heritage, and in accordance with the provisions of the Mayo County Development Plan, including the Core Strategy population/housing targets.*

Chapter 3 – Housing

- Section 3.4.11 Residential Densities

Higher densities will be applied to the higher order settlements of Ballina and Castlebar to align with their roles as Key Towns, subject to good design and development management standards being met.

Higher densities will also be applied to Westport, in recognition of its Tier I status within the settlement hierarchy. It is important that the density of new development in towns and villages is reflective of the existing character and that growth is linked to infrastructural capacity. As such, there will be a graded reduction in residential density for Self-Sustaining Growth Towns and Self-Sustaining Towns and Villages that are commensurate to the existing built environment.

- Town and Village Housing Objectives

TVHO 1 – To ensure that a suitable variety and mix of dwelling types and sizes is provided in developments to meet different needs, having regard to demographic and social changes, whilst all times acknowledging and reflecting the existing character of the area.

TVHO 2

To require residential development to demonstrate that a housing density appropriate to its context is achieved, providing for a sustainable pattern of development, whilst ensuring a high-quality living environment.

TVHO 4

To ensure the provision of childcare facilities as an integral part of proposals for new residential developments, having regard to the DEHLG's Childcare Facilities Guidelines for Planning Authorities, 2001 (as may be updated) in relation to the provision of childcare facilities, where appropriate.

TVHO 5

To achieve minimum appropriate densities and provide an adequate mix of building heights and typologies appropriate to the urban context having regard to the Sustainable Residential Development in Urban Areas Guidelines for

Planning Authorities (2009); Urban Development and Building Heights Guidelines for Planning Authorities' (2018) and the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) (or as updated), including any relevant specific planning policy requirements (SPPRs), where appropriate.

TVHO 6 To require that applications for residential development take an integrated and balanced approach to movement, place making, and streetscape design in accordance with the requirements of the Design Manual for Urban Roads and Streets, DTTS and DECLG (2013 as amended).

TVHO 7 To ensure the provision of adequate areas of high quality, safe and overlooked open space within residential developments and support the provision of play and recreational areas, including pollinator-friendly management of public open space, in all new large residential developments.

Chapter 9 – Built Environment

BEP 24 To be flexible in terms of enabling brownfield / infill development within settlements, focusing on design-led and performance-based outcomes, rather than specifying absolute requirements in all cases, whilst seeking to achieve 30% target for housing on infill/brownfield lands in urban settlements, as specified under the National Planning Framework and Regional Spatial Economic Spatial Strategy for the Northern and Western Region.

Volume 2 – Development Management Standards

- Section 3.4 Permeability and Sustainable Mobility

In accordance with the “Permeability Best Practice Guide” (NTA, 2015), the Planning Authority will require that consideration is given as part of any future development proposals to the following key principles for maintaining and providing permeability within the County’s settlements as follows:

- *Origins and destinations, such as schools and shops, should be linked in the most direct manner possible for pedestrians and cyclists.*
- *Links with adjoining sites should be factored into the proposal.*
- *Greater priority should be given to pedestrians and cyclists.*

- *The physical design of links should be fit for purpose in terms of capacity and security; and Junctions in urban and suburban areas should cater for pedestrians and cyclists safely and conveniently.*

- Section 4.4 Density

Table 2 (Residential Density) sets out a low to medium density requirement of 20 units per hectare for inner urban suburbs outside of town centres.

- Section 4.5 Layout

The layout of a new residential development shall be designed to achieve the following:

- *A strong sense of identity and a sense of place.*
- *Permeable layouts, with multiple connections to adjoining sites/estates for pedestrians and cyclists.*
- *A good sense of enclosure.*
- *Active frontage and supervised spaces.*
- *Due regard to Design Manual for Urban Roads and Streets, (2019) in relation to the design and use of urban roads and streets.*
- *High quality green infrastructure provision and linkages.*

Housing schemes for 20 or more houses should generally be broken into small functional and visual groups, which fulfil a social and aesthetic need for identity. This may be achieved through scale and massing arrangement, roof profiles, materials and decorative details.

- Section 4.5.5 Overlooking

All new residential developments should avoid unnecessary loss of privacy to adjoining developments.

Applicants shall therefore take into account the following design considerations, depending on the topography of the site:

- *A minimum of 22 metres shall be maintained between opposing first floor windows to ensure overlooking is avoided. In instances where the applicant*

can demonstrate that the design proposed overcomes the issue of overlooking, this requirement may be relaxed.

- *A minimum of 35 metres separation distance will be required in instances where first floor windows serve living room areas.*

- *Windows on side elevations at ground floor level shall be staggered to avoid overlooking of adjoining units. In instances where side elevation windows are proposed, a screen fence of at least 2 metres in height and/or landscaping will be required to increase privacy.*

- **Section 4.7 Public Open Space**

The provision of public open space is a requirement in all residential developments. The aim is to provide suitably designed and landscaped open space that is usable, safe, and integrated as part of the landscaping scheme.

- *In greenfield sites, the minimum area of multi-functional public open space that shall be provided is 15% of the total site area and public open space should be provided within 150 metres walking distance of every house in a new residential development.*

- *In brownfield sites or large infill sites, the minimum area of public open space that shall be provided is 10% of the total site area.*

In smaller schemes of less than 5 units, a reduction in the above will be considered based on design and the private amenity space of each unit exceeding the minimum requirements.

1 Housing Mix is a mix of house types, including detached houses, semi-detached houses and terraced houses etc., and house sizes, including one bed-roomed, two-bed roomed, three-bed roomed houses etc

- **Section 4.8 Private Open Space**

Dwelling houses should have an appropriate useable area of private open space to the rear of the front building line. The minimum private open space provision shall be

- *One/two-bedroom houses 55m²*

- *Three-bedroom houses 75m²*

- *Four bedrooms or more 100m²*

Exceptions to this may be allowed in relation to redevelopment of brownfield sites, infill development, special-needs housing or retirement homes. In this case smaller gardens (reduced area or depth) may be permissible in response to a well-designed proposal and if there are no overlooking issues.

In general, it is desirable that all new houses shall have a minimum clear distance of 3 metres between side elevations and shall not have first floor side window living room orientated in such a manner so as to cause overlooking and loss of privacy to other residential properties. Rear garden depth shall be a minimum of 11m. Residential schemes should represent a variety of rear garden sizes, so as to avoid standardised layouts.

- **Section 4.9 Boundary Treatments**

The following boundary treatments shall apply to housing developments:

- *Boundary walls which abut public open space should not represent blank facades. Design solutions such as dual aspect dwellings or reorientation of dwellings can be considered to maintain a sense of openness whilst being more aesthetically pleasing.*
- *All boundary walls which are highly visible from the public domain should be finished in local stone indigenous to the area.*
- *All perimeter boundary walls shall be no greater than 2m high and constructed as capped, rendered concrete block walls, back planted with indigenous hedgerows/trees.*

- **Section 4.10 Landscaping**

Landscaping shall be integral to development and used to enhance visual amenity, promote and enhance biodiversity and provide for the assimilation of development into its surroundings.

- *A landscape plan shall be submitted showing details of levels, materials, plant species, spacing and size, and in the case of housing developments in the towns and villages, lighting and irrigation. Any existing vegetation, such as mature trees and hedgerows, shall be retained where possible.*

- *Planting of native species is encouraged. No invasive species shall be permitted.*

- Section 7.5 Road and Traffic Assessments

A Road Safety Audit (RSA) shall be carried out for all significant developments proposed and submitted as part of the planning application. A 'significant development' includes development(s) which generate 40+ Traffic Movements per day or results in a modification to the road layout.

A Traffic Impact Assessment (TIA) shall be conducted in respect of proposed significant developments whereby traffic generated by the development exceeds 10% of the existing traffic level on the road, or 5% where the road is already congested.

Significant development proposals shall also be accompanied by a Traffic and Transport Assessment (TTA). Each RSA, TIA and TTA shall be carried out in accordance with Transport Infrastructure Ireland's requirements.

- Section 7.12 Parking Standards and Dimensions
- See Table 7 for Car Parking Standards

This requires 1 space per 2 bed house and 2 spaces per 3 and 4 bed house plus 1 visitor space per residential unit.

5.2. Ballina Local Area Plan 2024-2030

The LAP has been subject to a final Ministerial Direction issued in February 2025 which reversed listed material alterations including MA 36 which was to rezone the subject site for 'New Residential'. Following the Direction, I note the majority of the subject site is zoned 'Agriculture' under the LAP except for a small portion of the site to the south-east which is proposed for a construction yard and it is zoned 'New Residential'. The decision to grant permission was issued on 20/01/2025 by Mayo County Council prior to the implementation of the ministerial direction.

In relation to MA 29, MA 30, MA 31, MA 33, MA 34, MA 35 and MA 36, the Direction noted that the LAP zones additional residential land such that the LAP provides for zoning significantly in excess of the growth targets provided for in the core strategy of the County Development Plan, that the subject site is located in a peripheral and

non-sequential location, and/or outside the CSO settlement boundary, and/or without adequate infrastructure, and does not support sustainable travel patterns. In this context, it noted that this is inconsistent with the CDP objectives to promote compact and sequential development by consolidating the built-up footprint and developing outwards from the centre in a sequential manner, to avoid the inappropriate extension of services and utilities and to encourage sustainable travel patterns under Objectives CSO 4, CSO 5, SSO 3, SSO 6, GSO 1 and SO 12 of the CDP and RPO 3.1 and RPO 3.2(c) for compact growth and RPO 7.20 of the RSES to increase the population living within settlements.

DSO 2 *Seek the sustainable intensification and consolidation of the existing built environment in accordance with the objectives for compact growth in higher-level spatial plans through appropriate infill, brownfield development, supported by the necessary physical and community infrastructure.*

DSO 3 *Monitor the scale, type, tenure, and location of constructed and permitted developments in Ballina during the lifetime of the Plan and apply appropriate development management standards to ensure compliance with the Core Strategy to achieve the delivery of strategic plan-led and coordinated balanced development within the town.*

DSP 2 *Support the compact growth of Ballina to ensure that new development proceeds in a sustainable manner and at an appropriate scale, density and in line with the Core Strategy.*

HSCP 1 *Encourage the compact growth of Ballina and undertake a town centre first approach to ensure that development proceeds sustainably and at an appropriate scale, density and sequence and in line with the County Core Strategy Table.*

HSCP 4 *Support new residential development and infill development that occurs in tandem with the delivery of supporting physical and social infrastructure.*

HSCO 2 *Safeguard the amenity and integrity of completed residential estates and provide for smarter travel options, it is the objective of the Council to ensure that new access proposals to any adjoining lands through an existing completed residential estate is provided for pedestrian or bicycle movements/connectivity only.*

MTO 3: *Promote sustainable, compact development by ensuring that all proposals for residential and mixed-use developments, including infill and brownfield, incorporate provisions for pedestrian and cyclist activity and associated facilities that will integrate into the existing road/street network and proposed active travel network in the town.*

5.3. Ballina Local Transport Plan 2025

This is a plan to guide transport development of the town in line with the LAP. It seeks to provide sustainable transport options for trip origins within the town and it sets out a range of short-term to long-term measures for future transport development.

5.4. National Planning Framework First Revision (April 2025)

The relevant policy objectives include:

- National Policy Objective 7: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.
- National Policy Objective 9: Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints and ensure compact and sequential patterns of growth.
- National Policy Objective 12: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 22: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.
- National Policy Objective 43: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.5. Regional Spatial and Economic Strategy for the Northern and Western Region

Under Section 3.4 in relation to compact, smart and sustainable growth, it states that,

- *50% of new city housing within existing Galway City and suburbs footprint*
- *30% all new housing elsewhere, within existing urban footprints.*

RPO 3.1 *Develop urban places of regional-scale through:*

- *Delivering on the population targets for the Metropolitan and Regional Growth Centres through compact growth:*
- *Delivering significant compact growth in Key Towns; and*
- *Developing derelict and underutilised sites, with an initial focus within town cores.*

5.6. National Guidelines

Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Section 28 Ministerial guidelines to be particularly applicable to the assessment:

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) (the Compact Settlement Guidelines).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (2010).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- Childcare Facilities: Guidelines for Planning Authorities (2001).

Other national guidelines of relevance include:

- Design Manual for Urban Roads and Streets (2019) (DMURS).

5.7. Natural Heritage Designations

In relation to designated sites, the subject site is located:

- c.1.2km west of Killala Bay/Moy Estuary Special Area of Conservation (SAC) and Proposed Natural Heritage Area (PNHA) (site code 000458).
- c.1.55km north-west of River Moy SAC (site code 002298).
- c.1.9km south-west of Killala Bay and Moy Estuary SPA (site code 004036).
- c.2.9km south-east of Cloonagh Lough PNHA (site code 001485).
- c.5.9km north-east of Lough Alick PNHA (site code 001527).
- c.6.4km north-east of Lough Conn and Lough Cullin Special Protection Area (SPA) (site code 004228).
- c.6.4km north-east of Lough Conn and Lough Cullin PNHA (site code 000519).

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the third party appeal against the decision of the Council to grant permission on behalf of the Friarscourt Residents Association can be summarised as follows:

- Using the entrance road through the Friarscourt estate for construction traffic is a major safety concern for residents with so many children living in the estate.
- The Council previously refused permission for 54 houses and it refused to allow traffic through the estate. The Council has now reversed its position on this where it previously had serious concerns.
- There will be 170 additional houses if later phases are included.
- The LAP has a policy that only pedestrian and cycle links will be allowed to adjoining lands from an existing residential estate.
- This will result in a significant increase in vehicular traffic movements through Friars Court adjacent to gardens and open space without boundary walls.

- The TTA was carried out on 18th November 2021 during Covid 19 restrictions with significantly lower traffic volumes at that time and the study cannot be relied upon.
- There are already issues with traffic congestion exiting the Friars court estate in the morning.
- There is pyrite in houses within Friars Court and construction traffic could have a detrimental impact on already volatile houses and with associated health impacts.

6.2. Applicant Response

The response on behalf of Thawside Ltd, the applicant, can be summarised as follows:

- The site is bounded by the first phase of Friarscourt, the masterplan for which included the subject site and the site is brownfield and was previously included in the unfinished estates list.
- In terms of existing development rights, a decision maker has to consider what may be done with the site if permission is refused. The outline masterplan aligns with the parent permission.
- There is pent up demand for housing at this location based on low completion rates in recent years and per the 2022 Census.
- CDP housing targets are not limits.
- Section 37(2) of the Act allows the Board to grant permission where a material contravention of the Development Plan arises.
- The site is proximate to significant employment in the town include Ballina Beverages and supports the need for additional housing to match employment.
- The Ballina Local Transport Plan includes proposals to enhance active travel and permeability along desire lines such that the site is well connected and integrated into the town.

- Even if the remaining zoned lands in the town can yield the housing targets in the LAP, the targets are not limits, are grossly out of date and do not take account of pent-up demand/under provision or the LAP lifespan.
- LUZ 17 in relation to non-conforming use supports reasonable extensions and improvements to premises with the parent permission commenced and with services provided.
- Considerable irreversible investment has taken place to facilitate the residential development of the lands.
- LUZ 17 is applicable and there is no credible way of changing the land use to agriculture and the Board have unrestricted discretion to determine what is appropriate.
- The development would be a reasonable extension and improvement of the partially completed Friarscourt estate that would not be injurious to the amenities of the area and would be consistent with the proper planning and sustainable development of the area.
- In relation to potential material contravention given the absence of a new residential designation for the site, the Board should not fetter its discretion under Section 37(2)(a) which allows it to grant permission in the interests of proper planning and sustainable development.
- The OPR and the Minister have no standing in the subject appeal process.
- The Ministerial Direction in relation to the rezoning of the lands was flawed as there is no flood risk to the lands.
- The Local Authority and the OPR supported the use of the site for residential.
- The appellants accept the principle of the residential development of the site.
- The Board previously found no justification for restricting traffic through Friarscourt.
- Given the narrow scope of the appeal it should be dismissed per Section 138(1)(b) of the 2000 Act.

- Restriction of construction traffic from extant housing schemes would be fundamentally counterproductive and would be a major barrier to necessary housing development.
- Detailed construction and traffic management plans would be a standard element of the development.
- The construction process must be accommodated where there are no material impacts generated.
- Objective HSCO 2 of the LAP has been misinterpreted by the appellants as Friarscourt is not a completed residential estate. To apply this to phased developments would undermine the future development of the town.
- The previous Inspector's Report noted the importance of achieving permeability and connectivity within and between residential developments and that the alternative access would be a poor urban environment and a circuitous route.
- The possibility of accessing the site via alternative means has been exhausted as demonstrated by the recent Board decision.
- The masterplan development is the opposite of piecemeal development.
- The previous Inspector's Report found ample traffic capacity for the development and this remains valid as the local authority notes no issues, the spare capacity in the previous case for 47 no. dwellings resulted in the spare junction capacity reducing from 90% to 78%, on a pro rata basis the spare capacity would reduce to 68% for the 86 units, a further 70 units would reduce the spare capacity to 50% and the TII data suggests a level off of Covid travel patterns and the return of steady traffic levels.
- The regulation of the traffic environment to slow traffic is key regardless of the scale of the development.
- The scheme will improve the road layout of the Friarscourt scheme as highlighted at F.I. stage through the DMURS measures.

- Increased density and efficiency of land use is a fundamental principle of current planning policy and this necessitates more development and more activity in smaller areas.
- The site is well located to avail of sustainable travel means.
- In relation to pyrite, there is no case for sterilising the site from future development on the basis of potential defects in nearby buildings.
- In relation to the submission on the Draft Direction to the Ballina Local Area Plan, the response in summary noted the following:
 - The LAP is up to 2030 unlike the CDP which is until 2028.
 - The restrictions of planned population growth and zoning was based on an out of date post-recession response.
 - The Government has confirmed a significant expansion in housing targets up to 50,000 per annum.
 - The Minister and regulator were not restricted by the grossly outdated 2027 targets in Castlebar and Westport LAPs.
 - The subject lands adjoining existing housing and do not leapfrog extensive lands closer to the centre. This is sequentially appropriate.
 - The site is not peripheral and the existing neighbourhood includes employment and a new town park.
 - The site is not subject to flood risk which is limited to a normal and small riparian buffer strip along the adjacent watercourse as confirmed by the SFRA.
 - Infrastructure has been put in place notwithstanding the contentions of Uisce Éireann.
 - The SFRA only requires a SSFRA where flooding is a risk.
 - Flood risk was not an issue in the most recent planning application.
 - Lack of completion to date is not a material consideration with land activation measures available.

- Development was delayed by the ABP case and refusal.
- The site is serviced and a confirmation of feasibility letter has been submitted.
- Exclusion of the lands for residential outside the flood corridor is disproportionate.
- The lands are sequentially located within the Friarscourt masterplan. Ballina development is not concentric but extends outwards along the approach roads.
- There are similar cases where the Minister has not issued directions on the basis of connections to services, proximity to existing facilities, being contiguous with zoned lands, consolidation of the existing development pattern and a common sense approach is required.
- The site is a brownfield site and part of the built up environment at the top of the hierarchy priority order for development.
- The OPR recommendations were not reasonable or evidence based.
- There is a serious deficit in the population and zoned lands required for the town on the basis of historic patterns of low growth.

6.3. Planning Authority Response

Mayo County Childcare Committee submitted a response to the appeal. Their email confirms in their view that there is a high need throughout Mayo including Ballina for full day care, particularly for the age group 0 to 3 years old.

7.0 Assessment

7.1. Introduction

- 7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development – New Issue.
- Access.
- Density – New Issue.
- Layout and Residential Standards.
- Infrastructure Issues.
- Other Matters.

7.2. Principle of Development – New Issue

- 7.2.1. I note that at the time of the P.A. decision the site was zoned ‘New Residential’ under the Ballina Local Area Plan 2024 – 2030 (the LAP). Following a Ministerial Direction, the site is now predominantly zoned for ‘Agriculture’ (except for the construction compound to the south-east which is zoned for ‘New Residential’) the objective of which is *“To reserve land for agricultural and rural uses and to preserve the amenity of the town setting”*. Under the land use zoning matrix table of the LAP, residential-multiple is not normally permitted. In relation to such uses not normally permitted, the LAP states that *“the subject use is generally incompatible with the written zoning objective and will not be favourably considered by the Local Authority, except in exceptional circumstances and in such instances, the development may represent a material contravention to the plan”*.
- 7.2.2. In response to the P.A. decision, the third party appeal has advanced a case as to why permission should be granted notwithstanding the zoning of the site. I note that this issue was not addressed in the P.A. decision given that the ‘New Residential’ zoning applied at that time. As the third party appellant has not referenced this issue in their appeal, I consider this a new issue. The Board may wish to consider whether further circulation of the file to parties is required in this circumstance noting that the first party have addressed the zoning issue in their appeal response.
- 7.2.3. The appeal response includes, but is not limited to, that the site is a brownfield site where enabling and infrastructure works commenced for a permitted housing development, that the site is contiguous with the built up urban environment of the town, that the settlement pattern of the town is based on development along the main routes into the town rather than a concentric pattern, that there is no flood risk to the site, that it is proximate to employment including the Coca-Cola premises to

the north-east, the expansion of housing targets at a national level, the low level of residential output in the town in recent years, that it is an accessible location given the plans for active travel works in the vicinity, that infrastructure investment has taken place for the site, that it is serviced and that there is no issue in relation to access through the adjoining residential estate at Friarscourt.

- 7.2.4. While I note that the zoning of the site was the subject of a Ministerial Direction following a recommendation from the OPR, and that the planning system is intended to be plan-led, I will nevertheless assess the planning merits of these issues as requested by the appeal response. I note the site is effectively a brownfield site contiguous to the existing urban area. However, on the basis that there are other sites located closer to the town and on the basis of concentric zoning principles, I do not consider it appropriate to advance the subject site for residential development prior to the development and/or zoning of alternative sites that would be more accessible to the town centre and that are capable to being accessed from a shorter distance to the town centre.
- 7.2.5. While I note that the NPF has expanded housing targets and that there has been a history of failing to meet existing housing targets for the town, I do not consider this issue to be of such weight as to require the immediate residential development of the subject site when there are alternative better located residentially zoned sites available and when there are better located sites that could be rezoned for residential development. I do not consider it appropriate to pre-empt any zoning of lands arising from the revision to the NPF at this time.
- 7.2.6. This is notwithstanding that there is an existing pattern of development following the main access routes to the town notable towards the edge of the built-up area. I consider it significant that this could result in the population targets outlined in the core strategy of the CDP being exceeded. The rationale for my approach to this issue is to reduce the demand for transportation in general and to promote alternative modes of transportation to the car in line with the principles of sustainable development. This approach is consistent with the sustainable development approach adopted in the CDP and with national policy which both seek to reduce transportation trip demand and promote active travel.

- 7.2.7. I note there are no significant issues in relation to flood risk on the site noting the location within Flood Zone C and adjacent to the flood zone to the west associated with the Sruffaunbrogue stream. I note that some active travel measures are planned in the vicinity of the site and that it is proximate to employment. I also note that while Uisce Eireann note infrastructure upgrades are required, that some significant infrastructural works have taken place for the site. However, having regard to sustainable planning principles which advocate a sequential approach to development around urban areas, I consider that pending the development/zoning of alternative areas closer to the town some of which are used for agriculture, that it would be premature at this time to accept the principle of the residential development of the subject site. In this context, I do not consider that exceptional circumstances arise of such significance to over-ride this approach. On this basis, I consider that the proposed development would materially contravene the 'Agriculture' zoning objective of the LAP and that permission should be refused accordingly.
- 7.2.8. The appeal response states that the site should be considered under the land use zoning 17 for established use / non-conforming uses. This objective states "*To generally support reasonable extensions and improvements to premises that accommodate established/non-conforming uses, where it is considered by the Planning Authority that the proposed development would not be injurious to the amenities of the area and would be consistent with the proper planning and sustainable development of the area*". For the reasons I outlined above in relation to the why I consider the site to be unsuitable for residential development at this time, I confirm I do not consider the applicant's appeal response approach to be consistent with the proper planning and sustainable development of the area. I also note that the scale of development is large relative to the size of the Friarscourt adjoining development which occurs on zoned residential lands, which occurs on zoned residential lands, such that it cannot be considered to be a reasonable extension of a premises or non-conforming use.

7.3. Access

- 7.3.1. The third party appeal has raised issues in relation to the use of the adjoining Friarscourt residential estate to access the subject site.

Operational Access

- 7.3.2. In relation to access for the proposed development, which would be through the adjoining Friarscourt estate, I note that LAP policy HSCO 2 seeks to avoid new access proposals through existing completed residential estates other than for pedestrian or cycle movement. I note the site history whereby the subject site and adjoining Friarscourt estate were part of an application permitted for a larger housing estate and that while the adjoining estate to the east was largely completed, that only enabling and infrastructure works commenced on the subject site before work ceased. In this context, noting the provisions of HSCO 2 and that the adjoining residential estate was permitted on the basis of access provision for new houses to the remainder of the site to the east, I do not consider that HSCO 2 is applicable in this instance.
- 7.3.3. In relation to safety concerns for future residents accessing the estate by car through the adjacent Friarscourt estate, I note that at F.I. stage it was confirmed that DMURS design principles would be applied to the scheme with reduced road widths, turning radii, and raised junction surfaces included among the design measures. Provision for the inclusion of two raised pedestrian crossings and a cycle path within the existing adjoining housing estate are also included. Noting this, and the distance between the raised pedestrian crossings within the scheme and within the adjoining housing estate, I consider that sufficient provision has been made for reduced and safe design speeds consistent with DMURS such that I have no significant safety concerns in relation to vehicular access through the adjacent residential estate. I also note no significant concerns were raised in this regard from the Council's Road Design section. Should permission be granted I recommend that a specific condition requiring the inclusion of the road safety design measures for the adjacent residential estate be included and for the adherence to DMURS standards.
- 7.3.4. In relation to traffic and road capacity in the vicinity, I note the submission of the Traffic and Transport Assessment report dated March 2024. This report was primarily based on the provision of 116 additional residential units which it refers to as phase 2. I note that a traffic count was undertaken in November 2021 during Covid restrictions. This was augmented by data from TII on the N2 where a seasonal variation was noted such that a seasonal adjustment factor of +20% was included. TII growth estimates for future years up to 2041 were included. Given this

approach, while noting the concerns of the appellant in relation to the survey period, I am satisfied that the TTA can be relied upon for this assessment.

- 7.3.5. In relation to the concerns raised regarding the future plans for the remainder of the site, including phase 5, I note that such matters are not the subject of the application or this assessment and would be required to be assessed (cumulatively) if a planning application is made for such elements in the future. In this context, I am satisfied that my approach to this assessment is reasonable.
- 7.3.6. In relation to the capacity tests for the R314 / Friarscourt junction, the TTA noted that with the completion of phase 2, the ratio of flow to capacity (RFC) would reach 59.3% in the AM peak hour and 50% in the PM peak hour. It also noted RFCs for the right turn from the R314 of no greater than 12.5% from phase 2. The TTA concluded that the junction would operate well within capacity for all scenarios up to and beyond the future year of 2041. Having reviewed the TTA, I am satisfied that there would be more than sufficient road capacity to cater for the development in line with TII guidelines and such that no significant impacts would arise.

Construction Access

- 7.3.7. In relation to construction access for the proposed development, which would be through the adjoining Friarscourt estate, I note that given the planning history whereby the Board previously refused permission for an alternative construction access route based on environmental impacts, there is no reasonable alternative access route for construction vehicles other than through the existing estate.
- 7.3.8. I note the submission of a Project Management Plan (Construction Management Plan) at F.I. stage. This provides an outline plan in relation to public safety and awareness, operating hours and noise control, dust and dirt control, waste and material management and traffic management. This proposes standard measures and proposes that construction deliveries take place outside of peak hours and that pedestrian thoroughfares will remain open and clear from debris. While I acknowledge the inevitable disruption that would result from the construction on the subject site, I consider that it is reasonable that construction be provided for in line with best practice to ensure that no unreasonable impediment to development is applied as the alternative would set a precedent that would disallow the completion

of existing residential estates where an earlier phase of development has been completed and occupied.

- 7.3.9. I note the appellant's concerns in relation to pyrite within the adjoining houses at Friarscourt. Given the separation distance to the site and that construction vehicles would access the site via Friarscourt, I consider it unlikely that structural damage to the houses in Friarscourt would result.
- 7.3.10. I note the third party road safety concerns particularly in relation to children playing. However, I consider that should permission be granted, that such concerns can be dealt with by condition requiring best practice construction management measures to be agreed prior to commencement of development. As an added precaution, I recommend that the road safety enhancements to the adjoining estate be required to be completed prior to the commencement of construction on the subject site.

7.4. Density – New Issue

- 7.4.1. Table 2 (Residential Density) of Volume 2 of the CDP sets out a low to medium density minimum standard of 20 units per hectare for inner urban suburbs outside of town centres. The CDP was prepared prior to the implementation of the Compact Settlement Guidelines and I note the guidance for key towns / large towns. For suburban /urban extension areas of such towns there is an objective for densities in the range of 30 to 50 uph in the guidelines.
- 7.4.2. The proposed density is c.17uph. While having regard to the guidelines, I note the CDP minimum requirement for 20 units per hectare. I consider this be a low density development and in the context of the Compact Settlement Guidelines, I consider that the proposed density would be significantly lower than the minimum recommended density of development for the purposes of the achievement of compact and sustainable development. This, in my view, would represent a significant inefficient underutilisation of an urban site should it be considered appropriate for residential development at some stage in the future.
- 7.4.3. I note that were this to be considered a ground for refusal based on an excessively low density contrary to Table 2 of Volume 2 of the CDP, that it would be a new issue as the applicant has not had the opportunity to specifically respond to this contention notwithstanding the issues raised in the appeal response. The Board may wish to

consider whether further circulation of the file to parties is required in this circumstance

7.5. Layout and Residential Standards

- 7.5.1. I note that following F.I. some revisions were made to the scheme layout and a Design Statement was submitted. The creche would be located to the south-west end of the site with dedicated parking and with a dedicated area of open space to the north. I note that the green open space areas would be located centrally in relation to the three main groups of houses and that the houses and creche building would face these spaces, enclose the spaces and provide passive surveillance of same. Noting the street layout which is generally DMURS compliant, with buildings enclosing and facing the streets, and with open space over 18% of the site area in excess of the 15% required in the CDP (Section 4.7, Volume 2), I am satisfied that the layout of the scheme would be in accordance with high quality urban design principles.
- 7.5.2. In relation to permeability, I note the vehicular connection to Friarscourt to the east and the provision for connections to the north-west and south in the context of the wider masterplan. However, in relation to potential connections outside the site, particularly to the north and west, I note the potential for ransom strips. Accordingly, should permission be granted, I recommend a condition to ensure no ransom strips are created.
- 7.5.3. In relation to landscaping, I note the submitted Landscape Proposals document at F.I. stage where the revised proposal included provision for three play grounds and one formal sports play area and that new trees would be planted along roads and on the edges of the open space areas. There is a specification for tree planting which includes Norway Maple, Common Birch, John Downie Crab Apple, Whitebeam, Shirotae Cherry, Common Oak, Rowan Cardinal Royal and Small Leafed Lime. The landscaping plan shows a wide distribution of new trees across the site. Should permission be granted, I recommend a condition that requiring the implementation of the landscaping plan be agreed with the P.A.. I note the boundary treatments submitted at F.I. stage which are acceptable. The open space areas are all shown to include parking provision areas aligning their edges. This is less than ideal from an

urban design perspective as it creates the potential for these green areas to be excessively visually car dominated.

- 7.5.4. I note that SPPR 3 of the Compact Settlement Guidelines is directly applicable in this regard, and noting that each residential unit is shown with two car parking spaces, I consider this to be more than sufficient in line with the maximum requirement applicable per SPPR 3 and the extra visitor spaces are not therefore required. However, the CDP requirement includes a requirement for plus one visitor space per residential dwelling and the omission of these visitor spaces would therefore be a material contravention of the CDP. In my opinion, such omission would be wholly justified having regard to SPPR3 of the Compact Settlement Guidelines and would align with national policy to reduce car parking provision for urban residential development and to encourage alternative modes of transportation. I consider that it is open to the Board to grant permission on this basis per Section 37(2)(a) of the 2000 Act as amended.
- 7.5.5. With the exception of the parking spaces in front of the creche, should permission be granted I recommend that the parking areas adjacent to the open space areas be omitted by condition and a condition requiring two spaces per three and four bedroom dwelling and one space per two bedroom dwelling. For childcare facilities, the minimum CDP requirement is 1 space/employee and 0.25 spaces/child. This would give a minimum requirement for 10 spaces for the employees and 19 for the no. of childcare places, or 29 in total and 12 spaces are proposed for the creche. However, I note the setting down zone to the south could be re-purposed to provide additional creche parking spaces in line with CDP requirements. Should permission be granted, I therefore recommend a condition for agreement with the P.A. that the additional required childcare spaces be provided in the vicinity of the creche building.
- 7.5.6. Objective TVHO 4 of the CDP seeks to ensure childcare facilities as an integral part of residential developments. Section 9.3 of Volume 2 of the CDP notes the threshold for such provision is one facility per 75 dwellings and the Childcare Guidelines are to be followed where an average of 20 childcare spaces per one facility is noted. The proposal includes provision for a creche of 520sqm that would cater for up to 75 children according to the floor plans. I note the creche would be located to the south-west area of the area with an outdoor play area and would be safely

accessible as noted above in this assessment. In relation to the proposed 86 dwellings, I consider the creche acceptable having regard to CDP policy.

- 7.5.7. In relation residential standards, I am satisfied that internal floor area standards and private open space would generally be in excess of the required minimum standards. There would be a mix of house types including 18% two bed units, 52% three bed units and 30% four bed units including a small number of single storey dwellings and I am satisfied that this is indicative of a good housing mix for such a suburban location with no specific requirement outlined in the CDP (Volume 2, Section 4.6).
- 7.5.8. I note in relation to the scheme layout that separation distances within and without the development would exceed 22m between opposing first floor windows in line with Section 4.5.5 of the CDP such that no undue overlooking concerns arise. I also note that the separation distances and heights up to two storeys do not give rise to any overshadowing concerns in relation to property in the vicinity or of residences within the scheme.

7.6. Infrastructure Issues

- 7.6.1. In relation to drainage, I note the applicant was requested to submit detailed design calculations for the stormwater system, incorporating a SUDS design, and to submit winter water table details. These were submitted at F.I. stage and the P.A. found the responses acceptable. Noting the connection to the public network, subject to a standard SUDS drainage condition, I am satisfied that the development would accord with the CDP standards in this regard.
- 7.6.2. In relation to Uisce Éireann, I note the submitted pre-connection letter at F.I. stage confirms that connection to the public network is feasible although upgrades are required. For water connection, the water connection in the adjacent Friarscourt estate may require to be upgraded to a bigger size. For the wastewater connection, the 250m of sewer, if it is 150mm, through the adjacent estate most likely requires upgrade. Subject to standard condition in relation to this matter, I am satisfied that no significant public health issue arises.

7.7. Other Matters

- 7.7.1. I note the response to the appeal requests the dismissal of the appeal on the grounds that it is narrow in scope per Section 138(1)(b) of the 2000 Act. I have

reviewed the scope of the appeal, and I note that significant planning issues have been raised particularly in relation to access and transportation. On this basis, having regard to the nature of the appeal, I do not recommend the Board dismiss the appeal.

- 7.7.2. I note the site location within Flood Zone C and the site location adjacent to the flood zone associated with the Sruffaunbrogue stream. Therefore, subject to standard design measures in relation to drainage infrastructure, including SUDS, I am satisfied that no flood risk issues arise.
- 7.7.3. In relation to archaeology, I note the site location is removed from the zone of influence of any national monuments. An Archaeological Assessment was submitted at F.I. stage and this confirmed no features of potential archaeological significance on the site or in its vicinity. Accordingly, should permission be granted I recommend that a standard archaeological condition be attached to ensure any potential archaeological finds made during construction/excavation are dealt with appropriately.
- 7.7.4. I note the Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021) applies to schemes with 5 or more houses including duplexes. Accordingly, should permission be granted, I recommend a condition to ensure first occupation of the units is restricted to individual purchases.
- 7.7.5. In relation to Part V for social and affordable housing, should permission be granted, I note the requirement for the inclusion of a Part V condition given the proposal for houses on land.
- 7.7.6. I note issues were raised by the third party in relation to site notices not being present at various times. I note that the site notices were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations and the appeal. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

8.0 EIA Screening

- 8.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this

report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

9.0 Appropriate Assessment – New Issue

AA Screening

9.1. 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 it is not possible to exclude that the proposed development alone will give rise to significant effects on Killala Bay / Moy Estuary SAC, River Moy SAC and Killala Bay and Moy Estuary SPA in view of the sites conservation objectives. Appropriate Assessment is required. In reaching this conclusion I have noted possible impacts and effects on the mudflats and sandflats not covered by seawater at low tide and humid dune slacks of the Killala Bay/Moy Estuary SAC as these qualifying interests are not specifically listed in the NIS table (Table 6, NIS) of qualifying interests for this SAC.

9.2. This determination is based on:

- Potential pathways to these European sites through water channels from the stream adjacent to the west of the subject site.
- The presence of otters associated with the River Moy SAC adjacent to the subject site and the potential for disturbance during construction.
- The location and distance to the European sites.
- The nature of the type of construction proposed.
- The Screening Report and NIS accompanying the application.

Appropriate Assessment

9.3. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Killala Bay / Moy Estuary SAC, River Moy SAC and Killala Bay and Moy Estuary SPA in view of the

conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

9.4. Following an examination, analysis and evaluation of the NIS and all associated material submitted, I consider that adverse effects on site integrity of the Killala Bay / Moy Estuary SAC, River Moy SAC and Killala Bay and Moy Estuary SPA cannot be excluded in view of the conservation objectives of these sites and that reasonable scientific doubt remains as to the absence of such effects.

9.5. My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The ability to implement the identified mitigation measures remains unclear.
- The resulting absence of certainty regarding the effects on the attainment of conservation objectives for Killala Bay / Moy Estuary SAC or prevent or delay the restoration of favourable conservation condition for *Lutra lutra* (Otter) [1355] and the other aquatic species and habitat listed in the conservation objectives for the SAC and for the two other European sites listed above.

9.6. I note this is a new issue as it was not identified as a significant issue at any previous stage of the planning application process or appeal, and should the Board consider granting permission, it may wish to consider giving the parties to the appeal the opportunity to respond to the inadequacies identified in relation to the NIS above and in Appendix 4.

10.0 Conclusion

I have found that the proposed development is contrary to the zoning for the site (new issue). I have also raised other issues relating to the adequacy of the NIS and the density of development. Having regard to the substantive zoning issue the Board may not wish to include these in their reason for refusal.

11.0 Recommendation

I recommend that permission be refused.

12.0 Reasons and Considerations

1. Having regard to the site zoning for 'Agriculture' on the part of the site where housing and a creche are proposed, under the Ballina Local Area Plan 2024 – 2030 the objective of which is "*To reserve land for agricultural and rural uses and to preserve the amenity of the town setting*" and noting that per the land use zoning matrix table, 'residential-multiple' is not normally permitted, and noting that the population targets of the core strategy could be exceeded by the residential development and that there is a failure to follow a concentric settlement pattern whereby there are available lands closer to the town centre that would be more suitable for residential development, the development would be contrary to the zoning objective for the site, the core strategy of the Mayo County Development Plan 2022-2028 and contrary to the proper planning and sustainable development of the area.

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

Ciarán Daly

Planning Inspector

21st May 2025

Appendix 1 – Form 1

EIA Pre-Screening

An Bord Pleanála	ABP-321876-25		
Case Reference			
Proposed Development Summary	Construction of 92 no. houses and a creche of 520sqm.		
Development Address	Friars Court, Laghtadawannagh, Killala Road, Ballina, Co. Mayo.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Part 2, Class 10(b)(i) and (iv).	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X	Threshold: Construction of more than 500 dwelling units and urban development which would involve an	Proceed to Q4

		area greater than 10 hectares outside of a built-up area.	
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Construction of 92 no. dwellings and a creche on a site area of 5.085ha. I note that there are no other permissions or applications for residential development within the wider land holding such that cumulative impact does not arise.	Preliminary examination required (Form 2)

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

Inspector: _____ **Date:** _____

Appendix 2 – Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321876-25
Proposed Development Summary	Construction of 92 no. houses and a creche of 520sqm.
Development Address	Friars Court, Laghtadawannagh, Killala Road, Ballina, Co. Mayo.
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposal is for 92 no. houses and a creche within an urban area. The proposed development will not rise to the production of significant emissions, pollutants or waste.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The site is adjacent to an existing residential development to the east and adjacent to the Sruffaunbrogue stream to the west. This stream provides an indirect connection to the Killala Bay/Moy Estuary SAC. The site is c.1.2km west of Killala Bay/Moy Estuary SAC, is c.1.55km north-west of River Moy SAC (site code 002298) and is c.1.9km south-west of Killala Bay and Moy Estuary SPA (site code 004036).

	Enabling works have been undertaken on the lands in relation to a previous development that did not proceed such that the lands could be considered brownfield notwithstanding the location on the edge of the town. Following an Appropriate Assessment having regard to the documentation on file including the NIS it has been concluded that there is an absence of certainty regarding the effects on the attainment of the conservation objectives for three European sites as the ability to implement the identified mitigation measures remains unclear. The screening carried out for environmental impact assessment (Appendix 3), has addressed the characteristics of the proposed development, its location and the types and characteristics of potential impacts has also had regard to the mitigation measures proposed in respect of protecting water quality. Impacts on European sites can be addressed under Appropriate Assessment, which I have addressed in Section 9.0 of my report. On this basis, noting the threshold for EIA, subject to appropriate mitigation measures I am satisfied that there is no potential for significant effects on water quality or aquatic species or habitat or any other environmental factor, or any requirement, therefore, for environmental impact assessment.
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Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		The nature and scale of the development is not significant relative to the EIA threshold. The issues arising in relation to proximity to European sites are dealt with under the Appropriate Assessment section. I note there is no likelihood of other significant effects on the environment. In combination with the adjacent Friar's Court estate, the development remains below the threshold for mandatory EIA.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	X

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3 – Form 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	Construction of 92 no. houses and a creche of 520sqm.
Brief description of development site characteristics and potential impact mechanisms	Site area is 5.085ha. The site is adjacent to an existing residential development to the east and adjacent to the Sruffaunbrogue stream to the west. The site is c.1.2km west of Killala Bay/Moy Estuary SAC, is c.1.55km north-west of River Moy SAC (site code 002298) and is c.1.9km south-west of Killala Bay and Moy Estuary SPA (site code 004036). There would be no emissions, pollutants or waste of significance. SUDS drainage measures have been incorporated into the design and connection to water and wastewater network is a feature. In relation to potential disturbance during construction and operational stages, I note the distance of the site from European sites is significant.
Screening report	Y
Natura Impact Statement	Y
Relevant submissions	None.
An NIS and Otter Survey Report was submitted at F.I. stage. Otter surveys were carried out on 28/04/24, 04/05/24 and 12/05/24. The Otter Survey Report concluded as follows, <i>“The proposed development site including habitats within the site itself and also the adjoining watercourse within 150m of the site was surveyed for the presence of Otter (Lutra lutra). No holts were identified within the scope of the surveys. No live or dead specimens were observed throughout the course of the surveys. However, otter spraints were found at two locations within the vicinity of the stream. In rivers and lakes, an otter's territory typically ranges from 1 to 20</i>	

kilometres of river length. Otters, particularly males, are known to have territories of 1 to 20km of river length, and so, the stream is most likely used by otter for commuting/foraging purposes. With reference to the Conservation Objectives for otter with respect to the River Moy SAC, it is concluded that the project will or could (worst case) and in the absence of mitigation result in adverse effects on integrity on otter within the SAC due to:

- A potential for localised disturbance during construction;
 - A potential for otter to be killed and injured during construction; and
 - A potential for changes in water quality within the River Moy during construction and operation.
- With the correct implication of mitigation measures laid out in this Otter Survey Report and the associated NIS, no adverse effects on Otters are anticipated. The development will not affect otters as a Qualifying Interest of the River Moy SAC, relative to it's Conservation Objectives".

I note survey periods between March and September are considered sub-optimal due to the presence of vegetation but I consider the surveys reliable nevertheless as it is possible to make reliable observations.

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
Killala Bay / Moy Estuary SAC (site code 000458)	Conservation Objectives , 31 st October 2012	1.2km	Indirect connection via the Sruffaunbrogue Stream.	Y
River Moy SAC (site code 002298).	Conservation Objectives , 3 rd August 2016	c.1.55km	Weak indirect hydrological connection as while the Sruffaunbrogue Stream flows into the River Moy downstream of the SAC, there is potential for Otter to move between the River Moy SAC and the stream.	Y
Killala Bay and Moy Estuary SPA (site code 004036).	Conservation Objectives , 28 th May 2013	1.9km	Indirect connection via the Sruffaunbrogue Stream which flows into the SPA via the Killala Bay / Moy Estuary SAC.	Y

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
Site 1: Killala Bay / Moy Estuary SAC (site code 000458) Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Petromyzon marinus (Sea Lamprey) [1095] Phoca vitulina (Harbour Seal) [1365]	Direct: No works within the SAC. Indirect: Localized, temporary, low magnitude impacts from noise, dust and construction related emissions to surface water during construction, for example escape of silt laden water, cement and hydrocarbons from the site into the adjacent stream to the west which leads to this SAC. Invasive species can travel as a result of construction with Japanese Knotweed noted to be present on the site. Impacts on Narrowmouthed Whorl Snail, Sea Lamprey and Harbour Seal. At the operational phase, the SUDS measures incorporated into the design would ensure no impacts on water quality and noting that the wastewater treatment plant has ample capacity per the Uisce Éireann capacity register. Impacts cannot be ruled out during the construction phase in terms of possible habitat loss and disturbance to species.	Deterioration of water quality can indirectly affect the conservation objectives for a number of the qualifying interests, particularly the Narrowmouthed Whorl Snail, Sea Lamprey and Harbour Seal, of the SAC. Effects on habitats and disturbance to species cannot be ruled out.

	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?	
Site name	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
Qualifying interests		
	Impacts	Effects
Site 2: River Moy SAC (site code 002298). Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510] Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150] Alkaline fens [7230] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Austropotamobius pallipes (White-clawed Crayfish) [1092] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355]	Direct: No works within the SAC. Weak Indirect: Localized, temporary, impacts on Sea Lamprey, Brook Lamprey, Salmon and Otter from noise, dust and construction related emissions to surface water during construction, for example escape of silt laden water, cement and hydrocarbons from the site into the adjacent stream to the west which, while not leading to the SAC as it is upstream of where the stream meets the River Moy, could impact on the aquatic species of this SAC which may travel up the stream. At the operational phase, the SUDS measures incorporated into the design would ensure no impacts on water quality and noting that the wastewater treatment plant has ample capacity per the Uisce Éireann capacity register. Impacts cannot be ruled out during the construction phase in terms of possible habitat loss and disturbance to species.	Deterioration of water quality can indirectly affect the conservation objectives for a number of the qualifying interests, particularly the aquatic species, of the SAC. Effects on habitats and disturbance to species cannot be ruled out.

	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?	
Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 3: Killala Bay and Moy Estuary SPA (site code 004036). Ringed Plover (Charadrius hiaticula) [A137] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Wetland and Waterbirds [A999]	Direct: No works within the SAC. Indirect: Localized, temporary, impacts from dust and construction related emissions to surface water during construction, for example escape of silt laden water, cement and hydrocarbons from the site into the adjacent stream to the west, which leads to the SPA. At the operational phase, the SUDS measures incorporated into the design would ensure no impacts on water quality and noting that the wastewater treatment plant has ample capacity per the Uisce Éireann capacity register.. Impacts cannot be ruled out during the construction phase in terms of possible habitat degradation / loss. The NIS notes a bird survey of April 2024 noted that no species listed as special conservation interests of Killala Bay / Moy Estuary SPA or significant habitat for breeding, roosting or foraging were observed during the ecologist's site visit such that no disturbance impacts are likely to arise.	Deterioration of water quality can indirectly affect wetland and waterbirds with potential knock on effects on the bird species which rely on the habitat of the SPA. In terms of disturbance, the distance from the site and absence of the relevant species on the site rules out significant effects. Effects on habitats cannot be ruled out.
	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? No	

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

It is not possible to exclude the possibility that proposed development alone would result significant effects on Killala Bay / Moy Estuary SAC, River Moy SAC and Killala Bay and Moy Estuary SPA from effects associated with deterioration of water quality from the possible release of silt laden water, cement and hydrocarbons during construction and disturbance of otters in the adjacent stream which are a qualifying interest of the River Moy SAC.

An appropriate assessment is required on the basis of the possible effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at screening stage.

Proceed to AA.

Appendix 4 – Form 4: Appropriate Assessment and AA Determination Form

Appropriate Assessment	
The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.	
Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed development of 92 no. houses and a creche in view of the relevant conservation objectives of Killala Bay / Moy Estuary SAC, River Moy SAC and Killala Bay and Moy Estuary SPA based on scientific information provided by the applicant. The information relied upon includes the following: • Natura Impact Statement prepared by Paul O' Grady, O' Grady Consulting Engineers Ltd. • Otter Survey Report prepared by OMC's Ciara Morrin BSc (Hons) Marine Science, University of Galway. • Project Management Plan (Construction Management Plan). • National Parks and Wildlife Service data. I note ambiguity as to whether the NIS has been prepared by a qualified person. However, having reviewed this NIS, and the accompanying Otter Survey Report, published NPWS information and the Inspector Reports (ABP-315466-23) in relation to the previous application on the adjacent site where this matter was addressed, I am satisfied that the information provided is adequate to allow for Appropriate Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.	
Submissions/observations None relevant.	
NAME OF SAC/ SPA (SITE CODE): Killala Bay / Moy Estuary SAC (site code 000458)	

Summary of Key issues that could give rise to adverse effects (from screening stage): (i) Water quality degradation (construction) (ii) Disturbance of mobile species (iii) Spread of invasive species See Table 6 of NIS			
Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)
Estuaries [1130]	Maintain favourable conservation condition	1.4km east of subject site. Changes to habitat and water quality downstream. Mitigation measures proposed.	Best practice construction measures, 10m buffer zone along the western boundary during operational phase.
Mudflats and sandflats not covered by seawater at low tide [1140]	Maintain favourable conservation condition	No loss of any habitats are predicted. Changes to habitat and water quality downstream. Mitigation measures proposed.	Best practice construction measures, 10m buffer zone "where possible" (5m shown on plans) along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not relevant).
Annual vegetation of drift lines [1210]	Maintain favourable conservation condition	10km north of proposal, no effect predicted.	N/A
Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	Maintain favourable conservation condition	Not mapped by NPWS and not within the vicinity of the development. No effect predicted.	N/A
Salicornia and other annuals colonising mud and sand [1310]	Maintain favourable conservation condition	9.9km north of subject site. No effect predicted.	N/A

Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]	Maintain favourable conservation condition	2.8km northeast of subject site. No effect predicted.	N/A	
Embryonic shifting dunes [2110]	Maintain favourable conservation condition	0.6km north of subject site. No effect predicted.	N/A	
Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]	Restore conservation condition	8.7km north of subject site. No effect predicted.	N/A	
Fixed coastal dunes with herbaceous vegetation (grey dunes). [2130]	Restore conservation condition	8.2km north of development. No effect predicted.	N/A	
Humid dune slacks [2190]	Maintain favourable conservation condition	No loss of any habitats are predicted.	N/A	
Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]	Maintain favourable conservation condition	4.1km north-east of subject site. Not located within the adjacent stream. Mitigation measures proposed.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone "where possible" (5m shown on plans) along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not relevant).	
Petromyzon marinus (Sea Lamprey). [1095]	Maintain favourable conservation condition	Not mapped by NPWS. Not located within the adjacent	Good construction practice and both standard and site specific mitigation	

		stream. Mitigation measures proposed.	measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone “where possible” (5m shown on plans) along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not relevant).	
Phoca vitulina (Harbour Seal) [1365]	Maintain favourable conservation condition	1.4km east of subject site. Not located within the adjacent stream. Mitigation measures proposed.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone “where possible” (5m shown on plans) along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not relevant).	
The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests to a sufficient degree. Where Table 6 did not list the mudflats and sandflats not covered by seawater at low tide [1140] and the Humid dune slacks [2190], I am satisfied that it also identified no impacts on habitats of the SAC in section 5.2.1 and that given the absence of impacts on the other identified habitats, it is reasonable to assume no other impacts would arise given the similar pathways between the receptors and that the mitigation measures proposed would prevent water degradation and the distribution of invasive species.				

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

(i) Water quality degradation	
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Section 6.3.2 of the NIS describes how a 10m buffer zone will be implemented where possible along the western site boundary adjacent to the Sruffaunbrogue stream. It states that the vegetation in these zones can help filter pollutants from surface water run-off and they can act as natural barriers absorbing excess rainfall and runoff which can reduce flood risk and severity. It also notes that a retaining wall will run along the southern boundary of the adjacent site to the site which will serve similar protective purposes in relation to the adjacent stream. This retaining wall is not part of this development and is not relevant. I note that the buffer zone shown on the drawings is 5m and the NIS states that it will only be implemented "where possible". I note it has not been demonstrated that parts of buildings, such as the creche, will be not located within the buffer zone.

Prior to construction, it is proposed to erect silt trap fencing along the western boundary and with regards to the southern retaining wall. It states that the silt fence will be regularly inspected by the Ecologist of Works (EcoW) and contractor and in particular following heavy rainfall. It also notes that in areas subject to increased sediment deposition that a second parallel fence can be erected for added capacity at the judgement call of the Ecologist of Works. A site layout map is presented in figure 11 showing the location of the silt fence along the western site boundary between the development and the stream. This drawing is not clear as to how this relates to the buffer zone.

I note that the proposed works and silt trap fence would be located outside of a flood zone and that the construction access would be from the east through the adjacent residential site away from the Sruffaunbrogue stream such that, in contrast to the previously refused proposal on the adjacent site where the construction access would have been in a flood risk zone, I have no significant concerns in relation to any potential failure of any silt barriers due to flooding.

Mitigation measures and conditions

I note that it has not been demonstrated that it would be possible to fully implement the 10m buffer zone along the full length of the development adjacent to the Sruffaunbrogue stream. The submitted plans detail a 5m buffer zone and the NIS states that such a zone will only be implemented "where possible". I consider that this would be insufficient and I note a lack of specificity in terms of the interaction of the silt barriers with the buffer zone, such that I cannot rule out that no significant effects have been identified in relation to water quality degradation of the adjacent

stream or on the Killala Bay / Moy Estuary SAC. I do not consider the mitigation measures outlined in the NIS in relation to run-off from the site to be adequate.

(ii) Disturbance of mobile species

Section 6.3.2 of the NIS describes how a 10m buffer zone will be implemented where possible along the western site boundary adjacent to the Sruffaunbrogue stream. It states that this is to protect otters and local wildlife species from disturbance during construction and operation phases. It also notes that a retaining wall will run along the southern boundary of the adjacent site to the site which will serve similar protective purposes in relation to the adjacent stream. However, this retaining wall is not part of the proposed development.

Mitigation measures and conditions

I note that with the mitigation works, I cannot rule out significant effects in relation to mobile species, such as otter in the adjacent stream or on the Killala Bay / Moy Estuary SAC. This is because it is not clear that the 10m buffer zone can be implemented and in relation to the lack of specificity in relation to the interaction of the buffer zone and the silt barriers. I do not consider this adequate in relation to the likely identified presence of otter in the adjacent stream. I do not consider the mitigation measures outlined in the NIS in relation to disturbance of mobile species such as otter to be sufficient to ensure no significant effects arise.

(iii) Spread of invasive species

Japanese knotweed is found in the south-west area of the site, its removal can only be carried out under licence from NPWS. The EcoW will oversee all controls actions including adding additional silt fences if required.

Mitigation measures and conditions

The NIS describes the mitigation in section 6.0 and it plans to avoid the introduction of invasive species through measures including that all gravels/surface fill is to be acquired from an invasive species free source to minimise opportunity for site contamination and construction will only be carried out during daytime to reduce the risk of wildlife disturbance.

In relation to physical measures for, it states that *"It is deemed prudent to remove soil in the infested areas to a depth of at least 1.8 metres and 7 metres from the last visible plant in order to be certain that no rhizomes remain in the soil following excavation operations. The material must be disposed of at a licenced landfill subject to acquiring a licence. Detailed records of all operations will be maintained by throughout the project"*.

The NIS outlines a tailored approach to this matter to prevent the spread of invasive species and it includes habitat restoration with native plant species to restore biodiversity and ecosystem function and the monitoring of restored areas for signs of re-infestation.

I note that with the mitigation works, no significant effects have been identified in relation to mobile species, such as otter in the adjacent stream or on the River Moy SAC. However, I have noted above issues in relation to the 10m buffer zone and the interaction with the location of the silt barriers. I note that an Invasive Species Management Plan would also be required to ensure this is carried out and no such plan is submitted.

In-combination effects

I am satisfied that in-combination effects has been assessed adequately in the NIS. The applicant has not demonstrated satisfactorily that no significant residual effects will remain post the application of mitigation measures and there is therefore potential for in-combination effects.

Findings and conclusions

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

Based on the information provided, I am not satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water and other pollutants. However, I am not satisfied that these mitigation measures would be adequate, particularly the 10m buffer zone, its interaction with the location of the silt traps and the absence of an Invasive Species Management Plan. Monitoring measures are also proposed to ensure compliance and effective management of measures. I am not satisfied that the mitigation measures proposed to prevent adverse effects have been assessed as effective and can be implemented. There could be in combination effects.

Reasonable scientific doubt

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

Site Integrity

It has not been demonstrated that the proposed development will not affect the attainment of the Conservation objectives of the Killala Bay / Moy Estuary SAC. Adverse effects on site

integrity cannot be excluded and reasonable scientific doubt remains as to the absence of such effects.

NAME OF SAC/ SPA (SITE CODE): River Moy SAC (site code [002298](#)).

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

(i) Water quality degradation (construction)

(ii) Disturbance of mobile species

(iii) Spread of invasive species

See Table 5 of NIS

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)
Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]	Not listed.	Not mapped by the NPWS and not within the vicinity of the subject site. No effect predicted.	N/A
Active raised bogs [7110]	Restore favourable conservation condition	20.4km south-east of subject site. No effect predicted	N/A
Degraded raised bogs still capable of natural regeneration [7120]	Linked to that of the active raised bogs	Not mapped by NPWS. Not within the vicinity of the subject site. No effect predicted.	N/A
Depressions on peat substrates of the Rhynchosporion [7150]	Linked to that of the active raised bogs	Not mapped by NPWS. Not within the vicinity of the subject site. No effect predicted.	N/A
Alkaline fens [7230]	Maintain favourable conservation condition	Not mapped by NPWS. Not within the vicinity of the subject site. No effect predicted.	N/A

Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	Maintain favourable conservation condition	15.2km south-west of subject site. No effect predicted.	N/A
Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]	Maintain favourable conservation condition	10.2km south-west. No effect predicted.	N/A
Austropotamobius pallipes (White-clawed Crayfish) [1092]	Maintain favourable conservation condition	6.4km west. No effect predicted.	N/A
Petromyzon marinus (Sea Lamprey) [1095]	Maintain favourable conservation condition	Not mapped by NPWS. Not located within the adjacent stream. Mitigation measures proposed.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not relevant). However, only 5m buffer zone demonstrated and only "where possible".
Lampetra planeri (Brook Lamprey) [1096]	Maintain favourable conservation condition	Not mapped by NPWS. Not located within the adjacent stream. Mitigation measures proposed.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue

			stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only “where possible”.
Salmo salar (Salmon) [1106]	Maintain favourable conservation condition	Not mapped by NPWS. Not located within the adjacent stream. Mitigation measures proposed.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only “where possible”.
Lutra lutra (Otter) [1355]	Maintain favourable conservation condition	7km south-west, mapped by NPWS. Otter spraints recorded along the adjoining stream in April 2024 survey	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue

			stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only “where possible”.

The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests to a sufficient degree.

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

(i) Water quality degradation

Section 6.3.2 of the NIS describes how a 10m buffer zone will be implemented where possible along the western site boundary adjacent to the Sruffaunbrogue stream. It states that the vegetation in these zones can help filter pollutants from surface water run-off and they can act as natural barriers absorbing excess rainfall and runoff which can reduce flood risk and severity. It also notes that a retaining wall will run along the southern boundary of the adjacent site to the site which will serve similar protective purposes in relation to the adjacent stream. This retaining wall is not part of this development and is not relevant. I note that the buffer zone shown on the drawings is 5m and the NIS states that it will only be implemented “where possible”. I note it has not been demonstrated that parts of buildings, such as the creche, will be not located within the buffer zone.

Prior to construction, it is proposed to erect silt trap fencing along the western boundary and with regards to the southern retaining wall. It states that the silt fence will be regularly inspected by the Ecologist of Works (EcoW) and contractor and in particular following heavy rainfall. It also notes that in areas subject to increased sediment deposition that a second parallel fence can be erected for added capacity at the judgement call of the Ecologist of Works. A site layout map is presented in

figure 11 showing the location of the silt fence along the western site boundary between the development and the stream. This drawing is not clear as to how this relates to the buffer zone.

I note that the proposed works and silt trap fence would be located outside of a flood zone and that the construction access would be from the east through the adjacent residential site away from the Sruffaunbrogue stream such that, in contrast to the previously refused proposal on the adjacent site where the construction access would have been in a flood risk zone, I have no significant concerns in relation to any potential failure of any silt barriers due to flooding.

Mitigation measures and conditions

I note that it has not been demonstrated that it would be possible to fully implement the 10m buffer zone along the full length of the development adjacent to the Sruffaunbrogue stream. The submitted plans detail a 5m buffer zone and the NIS states that such a zone will only be implemented “where possible”. I consider that this would be insufficient and I note a lack of specificity in terms of the interaction of the silt barriers with the buffer zone, such that I cannot rule out that no significant effects have been identified in relation to water quality degradation of the adjacent stream or on the River Moy SAC. I do not consider the mitigation measures outlined in the NIS in relation to run-off from the site to be adequate.

(ii) Disturbance of mobile species

Section 6.3.2 of the NIS describes how a 10m buffer zone will be implemented where possible along the western site boundary adjacent to the Sruffaunbrogue stream. It states that this is to protect otters and local wildlife species from disturbance during construction and operation phases. It also notes that a retaining wall will run along the southern boundary of the adjacent site to the site which will serve similar protective purposes in relation to the adjacent stream. However, this retaining wall is not part of the proposed development.

Mitigation measures and conditions

I note that with the mitigation works, I cannot rule out significant effects in relation to mobile species, such as otter in the adjacent stream or on the River Moy SAC. This is because it is not clear that the 10m buffer zone can be implemented and in relation to the lack of specificity in relation to the interaction of the buffer zone and the silt barriers. I do not consider this adequate in relation to the likely identified presence of otter in the adjacent stream. I do not consider the mitigation measures outlined in the NIS in relation to disturbance of mobile species such as otter to be sufficient to ensure no significant effects arise.

Should permission be granted, the mitigation measures outlined in the NIS in relation to disturbance of mobile species such as otter should be required to be implemented by condition to ensure no significant effects arise.

(iii) Spread of invasive species

Japanese knotweed is found in the south-west area of the site, its removal can only be carried out under licence from NPWS. The EcoW will oversee all controls actions including adding additional silt fences if required.

Mitigation measures and conditions

The NIS describes the mitigation in section 6.0 and it plans to avoid the introduction of invasive species through measures including that all gravels/surface fill is to be acquired from an invasive species free source to minimise opportunity for site contamination and construction will only be carried out during daytime to reduce the risk of wildlife disturbance.

In relation to physical measures for, it states that *“It is deemed prudent to remove soil in the infested areas to a depth of at least 1.8 metres and 7 metres from the last visible plant in order to be certain that no rhizomes remain in the soil following excavation operations. The material must be disposed of at a licenced landfill subject to acquiring a licence. Detailed records of all operations will be maintained by throughout the project”*.

The NIS outlines a tailored approach to this matter to prevent the spread of invasive species and it includes habitat restoration with native plant species to restore biodiversity and ecosystem function and the monitoring of restored areas for signs of re-infestation.

I note that with the mitigation works, no significant effects have been identified in relation to mobile species, such as otter in the adjacent stream or on the River Moy SAC. However, I have noted above issues in relation to the 10m buffer zone and the interaction with the location of the silt barriers. I note that an Invasive Species Management Plan would also be required to ensure this is carried out and no such plan is submitted.

In-combination effects

I am satisfied that in-combination effects have been assessed adequately in the NIS. The applicant has not demonstrated satisfactorily that no significant residual effects will remain post the application of mitigation measures and there is therefore potential for in-combination effects.

Findings and conclusions

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

Based on the information provided, I am not satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water and other pollutants. However, I am not satisfied that these mitigation measures would be adequate, particularly the 10m buffer zone, its interaction with the location of the silt traps and the absence of an Invasive Species Management Plan. Monitoring measures are also proposed to ensure compliance and effective management of measures. I am not satisfied that the mitigation measures proposed to prevent adverse effects have been assessed as effective and can be implemented. There could be in combination effects.

Reasonable scientific doubt

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

Site Integrity

It has not been demonstrated that the proposed development will not affect the attainment of the Conservation objectives of the River Moy SAC. Adverse effects on site integrity cannot be excluded and reasonable scientific doubt remains as to the absence of such effects.

NAME OF SAC/ SPA (SITE CODE): Killala Bay and Moy Estuary SPA (site code [004036](#)).

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

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

No table in the NIS

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)

Ringed Plover (Charadrius hiaticula) [A137]	Maintain favourable conservation condition	Water quality degradation, spread of invasive species. Mitigation measures proposed for the above two SACs would protect this species.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only “where possible”.
Golden Plover (Pluvialis apricaria) [A140]	Maintain favourable conservation condition	Water quality degradation, spread of invasive species. Mitigation measures proposed for the above two SACs would protect this species.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only “where possible”.

Grey Plover (Pluvialis squatarola) [A141]	Maintain favourable conservation condition	Water quality degradation, spread of invasive species. Mitigation measures proposed for the above two SACs would protect this species.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only "where possible".
Sanderling (Calidris alba) [A144]	Maintain favourable conservation condition	Water quality degradation, spread of invasive species. Mitigation measures proposed for the above two SACs would protect this species.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only "where possible".

Dunlin (Calidris alpina) [A149]	Maintain favourable conservation condition	Water quality degradation, spread of invasive species. Mitigation measures proposed for the above two SACs would protect this species.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only "where possible".
Bar-tailed Godwit (Limosa lapponica) [A157]	Maintain favourable conservation condition	Water quality degradation, spread of invasive species. Mitigation measures proposed for the above two SACs would protect this species.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only "where possible".

Curlew (Numenius arquata) [A160]	Maintain favourable conservation condition	Water quality degradation, spread of invasive species. Mitigation measures proposed for the above two SACs would protect this species.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only “where possible”.
Redshank (Tringa totanus) [A162]	Maintain favourable conservation condition	Water quality degradation, spread of invasive species. Mitigation measures proposed for the above two SACs would protect this species.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only “where possible”.

Wetland and Waterbirds [A999]	Maintain favourable conservation condition	Water quality degradation, spread of invasive species. Mitigation measures proposed for the above two SACs would protect this wetland and waterbirds.	Good construction practice and both standard and site specific mitigation measures (e.g. silt trap fencing) to avoid adverse effects on water quality of the Sruffaunbrogue stream and the River Moy. 10m buffer zone along the western boundary during operational phase and retaining wall on southern boundary of later phase listed (not part of development). However, only 5m buffer zone demonstrated and only "where possible".
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The above table is based on the documentation and information provided on the file and I note that the submitted NIS did not review this matter in detail. However, I note the greater separation distance of the subject site from the SPA, the absence of disturbance impacts due to the remoteness of the site from the conservation objectives of the SPA and that the mitigation measures proposed in relation to water degradation and invasive species would have the effect of preventing significant effects on the conservation objectives of the SPA.

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

(i) Water quality degradation

Section 6.3.2 of the NIS describes how a 10m buffer zone will be implemented where possible along the western site boundary adjacent to the Sruffaunbrogue stream. It states that the vegetation in these zones can help filter pollutants from surface water run-off and they can act as natural barriers absorbing excess rainfall and runoff which can reduce flood risk and severity. It also notes that a retaining wall runs along the southern boundary of the adjacent site to the site which will serve similar protective purposes in relation to the adjacent stream.

Prior to construction, it is proposed to erect silt trap fencing along the western boundary and with regards to the southern retaining wall. It states that the silt fence

will be regularly inspected by the Ecologist of Works (EcoW) and contractor and in particular following heavy rainfall. It also notes that in areas subject to increased sediment deposition that a second parallel fence can be erected for added capacity at the judgement call of the Ecologist of Works. A site layout map is presented in figure 11 showing the location of the silt fence along the western site boundary between the development and the stream.

I note that the proposed works and silt trap fence would be located outside of a flood zone and that the construction access would be from the east through the adjacent residential site away from the Sruffaunbrogue stream such that, in contrast to the previously refused proposal on the adjacent site where the construction access would have been in a flood risk zone, I have no significant concerns in relation to any potential failure of any silt barriers.

Mitigation measures and conditions

I note that it has not been demonstrated that it would be possible to fully implement the 10m buffer zone along the full length of the development adjacent to the Sruffaunbrogue stream. The submitted plans detail a 5m buffer zone and the NIS states that such a zone will only be implemented “where possible”. I consider that this would be insufficient and I note a lack of specificity in terms of the interaction of the silt barriers with the buffer zone, such that I cannot rule out that no significant effects have been identified in relation to water quality degradation of the adjacent stream or on the Killala Bay and Moy Estuary SPA. I do not consider the mitigation measures outlined in the NIS in relation to run-off from the site to be adequate.

(ii) Disturbance of mobile species

Section 6.3.2 of the NIS describes how a 10m buffer zone will be implemented where possible along the western site boundary adjacent to the Sruffaunbrogue stream. It states that this is to protect otters and local wildlife species from disturbance during construction and operation phases. It also notes that a retaining wall will run along the southern boundary of the adjacent site to the site which will serve similar protective purposes in relation to the adjacent stream. However, this retaining wall is not part of the proposed development.

Mitigation measures and conditions

I note that with the mitigation works, I cannot rule out significant effects in relation to mobile species, such as otter in the adjacent stream or on the Killala Bay and Moy Estuary SPA. This is because it is not clear that the 10m buffer zone can be implemented and in relation to the lack of specificity in relation to the interaction of the buffer zone and the silt barriers. I do not consider this adequate in relation to the likely identified presence of otter in the adjacent stream. I do not consider the mitigation measures outlined in the NIS in relation to disturbance of mobile species such as otter to be sufficient to ensure no significant effects arise.

(iii) Spread of invasive species

Japanese knotweed is found in the south-west area of the site, its removal can only be carried out under licence from NPWS. The EcoW will oversee all controls actions including adding additional silt fences if required.

Mitigation measures and conditions

The NIS describes the mitigation in section 6.0 and it plans to avoid the introduction of invasive species through measures including that all gravels/surface fill is to be acquired from an invasive species free source to minimise opportunity for site contamination and construction will only be carried out during daytime to reduce the risk of wildlife disturbance.

In relation to physical measures for, it states that *"It is deemed prudent to remove soil in the infested areas to a depth of at least 1.8 metres and 7 metres from the last visible plant in order to be certain that no rhizomes remain in the soil following excavation operations. The material must be disposed of at a licenced landfill subject to acquiring a licence. Detailed records of all operations will be maintained by throughout the project"*.

The NIS outlines a tailored approach to this matter to prevent the spread of invasive species and it includes habitat restoration with native plant species to restore biodiversity and ecosystem function and the monitoring of restored areas for signs of re-infestation.

I note that with the mitigation works, no significant effects have been identified in relation to mobile species, such as otter in the adjacent stream or on the Killala Bay and Moy Estuary SPA. However, I have noted above issues in relation to the 10m buffer zone and the interaction with the location of the silt barriers. I note that an Invasive Species Management Plan would also be required to ensure this is carried out and no such plan is submitted.

In-combination effects

I am satisfied that in-combination effects have been assessed adequately in the NIS. The applicant has not demonstrated satisfactorily that no significant residual effects will remain post the application of mitigation measures and there is therefore potential for in-combination effects.

Findings and conclusions

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

Based on the information provided, I am not satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water and other pollutants. However, I am not satisfied that these mitigation measures would be adequate, particularly the 10m buffer zone, its interaction with the location of the silt traps and the absence of an Invasive Species Management Plan. Monitoring measures are also proposed to ensure compliance and effective management of measures. I am not satisfied that the mitigation measures proposed to prevent adverse effects have been assessed as effective and can be implemented. There could be in combination effects.

Reasonable scientific doubt

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

Site Integrity

It has not been demonstrated that the proposed development will not affect the attainment of the Conservation objectives of the Killala Bay and Moy Estuary SPA. Adverse effects on site integrity cannot be excluded and reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusion: Integrity Test

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

Following an examination, analysis and evaluation of the NIS and all associated material submitted, I consider that adverse effects on site integrity of the Killala Bay / Moy Estuary SAC, River Moy SAC and Killala Bay and Moy Estuary SPA cannot be excluded in view of the conservation objectives of these sites and that reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The ability to implement the identified mitigation measures remains unclear.
- The resulting absence of certainty regarding the effects on the attainment of conservation objectives for Killala Bay / Moy Estuary SAC or prevent or delay the restoration of favourable conservation condition for *Lutra lutra* (Otter) [1355] and the other aquatic species and habitat listed in the conservation objectives for the SAC and for the two other European sites listed above.