



An
Bord
Pleanála

Board Order
ABP-316070-23

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: 22/50608

Appeal by Christopher McG Limited care of Joe Bonner, Town Planning Consultants Limited of The Airport Hub, Unit 1, Furry Park, Old Swords Road, Santry, Dublin against the decision made on the 16th day of February, 2023 by Donegal County Council to refuse a permission for the proposed development.

Proposed Development: Construction of five number commercial units, including access, car parking, connection to public sewer and all associated site works at Killyclug, Letterkenny, County Donegal.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the County Donegal Development Plan 2018-2024, to the Letterkenny Plan and Local Transport Plan 2023-2029, to the proposed development site that is primarily zoned for General Employment purposes and which seeks: "To reserve land for commercial, industrial and non-retail purposes and car sales", to the Western Relief Road which runs to the west of the appeal site and to Objective LK-ED-O-1 that aims, inter alia, to build and strengthen Letterkenny as a key centre for economic growth across the sectors, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be contrary to the policies and provisions of the County Donegal Development Plan or Letterkenny Plan and Local Transport Plan, would not seriously injure the visual or residential amenities of the area, would not give rise to traffic hazard, and would not cause obstruction of pedestrians or road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted in their report that the inspector was not clear as to whether reservations are required to accommodate the Western Network Project. The Board therefore considered that, based on the totality of the information on file, together with the recent primary zoning by the planning authority of the site as general employment for commercial, industrial and non-retail purposes and car sales and proposed shared access, there was insufficient justification to refuse the proposed development on the grounds of creation of a new access or being prejudicial to the delivery of the Western Network Project. In relation to the proposed second reason for refusal, the Board was satisfied with the identified uses of the proposed commercial units provided as further information to the planning authority and did not share the Inspector's concerns regarding the layout of the development as piecemeal and haphazard. Subject to compliance with conditions, the Board was therefore satisfied the proposed development would not be contrary to Policy ED-P-14.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on 25th day of January 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The development hereby permitted relates to Units 1 – 5. Units 1 and 2 shall be used as office space only, while Units 3, 4 and 5 shall be for industrial/warehousing only, unless authorised by a further grant of permission.

Reason: In the interest of clarity and to prohibit an unacceptable change of use.

3. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, a revised site layout plan showing details of any revisions to the location of parking spaces number 1-30 inclusive, as indicated on drawing number 5921/FI101, incorporating any appropriate set back from the L1512-6 that is identified as a Strategic Road Corridor (Western Network Project). In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: To ensure a satisfactory layout in the interests of pedestrian and traffic safety and future strategic development.

4. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. (a) Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- (b) Details of SuDS measures shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of public health.

6. No trade or processing effluent shall be discharged from the site into the public sewerage system.

Reason: To ensure that the development does not place an excessive demand on the existing public sewerage facilities in the area.

7. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

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

Reason: In the interests of public safety and residential amenity.

9. No additional floorspace shall be formed by means of internal horizontal division within Units 3, 4 and 5 hereby permitted unless authorised by a prior grant of permission.

Reason: In order to control the intensity of development in the interest of ensuring that adequate car parking and service facilities will be provided within the development.

10. No fans, louvres, ducts or other external plant other than those shown on the drawings hereby permitted shall be installed in Units 3, 4 and 5 unless authorised by a prior grant of planning permission.

Reason: In the interest of visual amenity.

11. No goods, raw materials or waste products shall be placed or stored between the front of Units 3, 4 and 5 and the road.

Reason: In the interests of public health and the visual amenities of the area.

12. All goods, including raw materials, manufactured goods, packaging, crates etc. shall be stored or displayed only within the enclosed building of Units 3, 4 and 5.

Reason: In the interest of visual amenity.

13. Receptacles for waste shall be provided and available for use at all times on the premises of Units 3, 4 and 5 in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to occupation of Units 3, 4 and 5.

Reason: In the interests of the amenities of the area and to provide for a satisfactory standard of development.

14. All plant and machinery contained in Units 3, 4 and 5 shall be enclosed and soundproofed in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to occupation of Units 3, 4 and 5.

Reason: To safeguard the amenities of adjoining property.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900, Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

16. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following:

- (a) collection and disposal of construction waste,
- (b) surface water run-off from the site,
- (c) on-site road construction,
- (d) environmental management measures during construction including noise control, dust and vibration control and monitoring of such measures, and
- (e) the location of petrol interceptors so that the surface drainage of any area surrounding metering pumps, dispensers and tanker delivery points or the drainage of any petrol spillages or water contaminated with petrol shall be prevented from entering any water course, public drain or sewer.

A record of daily checks, that the construction works are being undertaken in accordance with the CEMP, shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

Reason: In the interest of landscape and environmental protection.

17. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

18. Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

19. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This scheme shall include the following: -

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street fixtures, including bollards, lighting, road signage; and
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

20. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

21. Seventy four car parking spaces shall be provided within the site. The layout of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate off-street parking provision is available to serve the proposed development.

22. A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

23. No deliveries shall be taken at or dispatched from the premises outside the hours of 0700 and 1900, Monday to Saturdays, nor at any time on Sundays or public holidays.

Reason: To protect the residential amenities of the area.

24. The development shall be managed in accordance with a management scheme which shall be submitted to, and agreed in writing with, the planning authority, prior to the occupation of the development. This scheme shall provide adequate measures relating to the future maintenance of the development; including landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services together with management responsibilities and maintenance schedules.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

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

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

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board

Dated this *29th* day of *May*, 2024

