



An
Coimisiún
Pleanála

**Commission Order
ACP-323552-25**

Planning and Development Act 2000, as amended

Planning Authority: Donegal County Council

Planning Register Reference Number: 25/60274

Appeal by Eddie Tobin against the decision made on the 8th day of August, 2025 by Donegal County Council to grant subject to conditions a permission to PJ McDermott care of TS McLaughlin Structural Engineers in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of a two-storey dwelling and single storey commercial unit. Construction of a single storey drive-thru restaurant, including the ancillary sale of hot food for consumption off the premises with an associated corral area, elevational signage, car parking, including accessible parking spaces, grill bays, ev charging spaces, bicycle parking, a height restrictor, customer order points with associated canopies, totem signage, free-standing signage, banner frames and digital menu boards, ESB substation and kiosk, landscaping, including outdoor furniture/seating area with parasols, boundary treatments, lighting, and all associated site and engineering works necessary to facilitate the development, and installation of a traffic barrier on the meridian of the public road R229 adjacent to the proposed site entrance to provide for left-in, left-out only vehicle movements

to and from the proposed development, all at Port Road, 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 provisions of the Donegal County Development Plan 2024-2030 and the Letterkenny Plan and Local Transport Plan 2023-2029, the location of the site in the established urban area of Letterkenny, and the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 received on the 15th day of July, 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2.
 - (a) Prior to commencement of development, the developer shall liaise with the Road Design and the Area Roads Engineer and agree the following upgrade/realignment/regulated works to be carried out, including finalised site signage and movement strategy, including internal circulation markings, wayfinding signage and bollard/curb details to enforce the left-in/left-out arrangement.
 - (b) Prior to commencement of development, the developer shall submit a revised site layout at a scale of not less than 1:500 illustrating the proposed details required under 2(a) above for the written agreement of the planning authority.

Reason: In the interest of traffic safety.

3. (a) All findings and recommendations contained in Section 2 of the Stage 2 Road Safety Audit received by the planning authority on the 15th day of July, 2025 shall be carried out to the satisfaction of the Executive Roads Engineer prior to first operation of the development herein permitted.
- (b) Prior to first commercial operation of the development herein permitted, a Stage 3 Safety Audit shall be undertaken and copies submitted to the planning authority and the Executive Engineer (Roads) for the written agreement of the Executive Engineer (Roads). All findings and recommendations of the Stage 3 Safety Audit shall be implemented in full in accordance with the requirements of, and to the written satisfaction of, the Executive Engineer (Roads) prior to the first use of the premises.
- (c) The exact detail and location of all traffic calming measures and pedestrian crossing points at the point of entry to the subject site and on the adjoining local road shall be agreed with and carried out to the written satisfaction of the Executive Engineer (Roads).

Reason: In the interest of public safety and to cater for the orderly development of the area.

4. The hours of operation, including any deliveries or associated services, shall be between 0800 hours to 2300 hours Mondays to Sundays inclusive. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: In the interest of orderly development.

5. Details of the materials, colours and textures of all the external materials and 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.

6. Apart from the signage approved as part of this permission, no advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended, or any statutory provision amending or replacing them, shall be displayed or erected (on the building/within the curtilage of the site) unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

7. The site shall be landscaped in accordance with the submitted landscaping scheme and shall be carried out within the first planting season following the substantial completion of external construction works. All trees/vegetation within and on the boundaries of the site which are proposed for retention shall be protected with appropriate measures during the construction period. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

8. A plan containing details for the management and safe disposal of all waste (and, in particular, recyclable materials) within the proposed development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities, shall be submitted to the planning authority prior to commencement of development.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

9. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operations (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:
 - (i) the nature and location of archaeological material on the site, and
 - (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Coimisiún Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

10. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11. Lighting shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public safety and to ensure a proper standard of development.

12. Prior to commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health.

13. Prior to commencement of development, the developer 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 file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to 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.

14. The construction of the proposed development shall be managed in accordance with a Construction Management Plan, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the proposed development, including:
- (a) the location of the site and materials compound(s), including area(s) identified for the storage of construction refuse;
 - (b) the location of areas for construction site offices and staff facilities;
 - (c) details of site security fencing and hoardings;
 - (d) details of on-site car parking facilities for site workers during the course of construction;

- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) measures to obviate the queuing of construction traffic on the adjoining road network;
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) details of appropriate mitigation measures for noise, dust, vibration and structural stability of adjoining property and monitoring of same. Noise mitigation measures shall include identification and agreement of noise sensitive locations, including schools, advanced notice of significant noise generating activities to noise sensitive locations, timing of significant noise generating activities outside of school hours where possible and details of a dedicated noise liaison person who shall be responsible for all necessary consultations with identified noise sensitive locations;
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- (l) the means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

15. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

16. The developer shall control odour emissions from the premises in accordance with measures, including extract duct details, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

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

Reason: In the interest of visual and residential amenity.

18. 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 or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: To safeguard the residential amenities of adjacent dwellings.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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

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



Mary Henchy

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**

Dated this *10th* day of *February* 2026.