

Planning and Development Acts 2000, as amended

Planning Authority: Donegal County Council

Planning Register Reference Number: 2561919

Appeal by Michael Doherty against the decision made on the 11th day of December 2025 by Donegal County Council to grant, subject to conditions, a permission to David McDermott in accordance with the plans and particulars lodged with the said Council.

Proposed Development: Planning permission for change of use and part retention and completion of existing commercial unit to facilitate a Commercial Vehicle Roadworthiness Test Centre and all ancillary works on site including an upgrade of the existing septic tank and percolation area at Tonyhabboc, Newtowncunningham, 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

The Commission considered that the proposed development would comply with Policy ED-P-7 that provides for the expansion of existing economic development in the countryside and meets the criteria set out in Policy ED-P-9. The proposed change of use and retention and completion of existing commercial unit to facilitate a commercial vehicular roadworthiness test centre, subject to compliance with the conditions set out below, would be acceptable in terms of traffic safety and convenience and would not detract from the amenity of adjoining properties.

The Commission, having had regard to the nature of the proposed secondary treatment system, the size of the percolation area, the hydraulic and organic loading proposed, the sufficient depth of the water table, the nature of the development and the totality of the information on this file, concluded that adequate arrangements are proposed for adequately treating effluent disposal on this site and that the development would not contribute to surface or ground water pollution.

The development proposed to be retained and the proposed development, therefore, would 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 Commission considered, due to the nature of the treatment system proposed, the size of the percolation area and the nature of the use of the site, that will result in limited hydraulic and organic loading of the system, that adequate information had been provided by the applicant for the type of system proposed to satisfy the Commission that the proposed upgraded wastewater treatment system is adequate to serve the development and would not result in a deterioration of the underlying groundwater body.

Appropriate Assessment Screening

In accordance with Section 177U of the Planning and Development Act 2000, as amended, and on the basis of the information considered in this appropriate assessment screening, the Commission concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the Lough Swilly Special Area of Conservation (site code: 002287) and the Lough Swilly Special Protection Area (site code: 004075) in view of their conservation objectives and, therefore, an Appropriate Assessment (and submission of an Natura Impact Assessment) is not required. This determination is based on:

- the nature and scale of development,
- the use of best practice measures in terms of surface water discharges, such as the use of interceptors, and
- the nature of the groundwater pathway, the distance to the Special Protection Area/Special Area of Conservation and associated filtration having regard to the underlying soil type and travel time.

Conditions

1. The development shall be carried out in accordance with the plans and particulars submitted with the planning application except as may otherwise be required in order to comply with the following conditions.

Reason: To clarify the plans and particulars for which permission is granted.

2. All external finishes shall match those of the existing commercial building.

Reason: In the interest of amenity.

3. Hours of business shall be limited to between 0800 to 1800 hours, Monday to Saturday, excluding Public Holidays and Sundays, and shall be closed at all other times.

Reason: To define the permission and cater for orderly development.

4. 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 interests of visual and residential amenity.

5. Noise levels as measured externally at nearest residence of the site boundaries shall not exceed 40 dB(A) during hours of operation.

Reason: In the interest of orderly development.

6. All waste materials shall be stored in environmentally safe conditions. All waste shall be stored in such a manner to ensure runoff shall not seep into surface water drainage system.

Reason: To cater for orderly development of the area.

7. No signs, symbols or other means of advertisement shall be erected or posted on site without prior written agreement of the planning authority and in any event, signage shall not be in the form of plastic, internally illuminated, box facia signs or similar.

Reason: To cater for orderly development.

8. All external lights shall be hooded and aligned to prevent direct spillage of light onto public road.

Reason: To cater for orderly development and in the interest of public safety.

9. 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 interests of public health and surface water management.

10. Prior to commencement of development, permanent visibility splays of 70 metres in each direction of the access shall be provided in each direction to the nearside road edge at a point 2.4 metres back from road edge at location of vehicular entrance. Visibility in the vertical plane shall be measured from a driver's eye-height of 1.05 metres and two metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision splays shall be calculated and provided as set out in Figure 16.2, Chapter 16 of the County Donegal Development Plan 2024-2030.

Reason: In the interest of traffic safety.

11. (a) Car parking shall be appropriately marked with thermoplastic road marking materials designating parking bays, distinguishing disabled parking bays, circulation lanes and areas to be kept clear of parking.
- (b) Roadways and paved areas shall be drained by the provision of an adequate number of gullies so arranged to avoid ponding. The gully grating shall be lockable type to B.S. 497 Part 1.

Reason: In the interest of traffic safety.

12. (a) All site boundary treatment, landscaping, planting, grading and facing, shall be carried out in strict accordance with the comprehensive landscaping, planting and grading details received by the planning authority on the 1st day of May, 2025. At least 50 number semi-mature broadleaf trees native to the area as detailed shall be planted within the site boundaries within first planting season following first commercial operation of the unit, any trees dying within subsequent three years shall be replaced.
- (b) All sound trees, shrubs and hedgerow shall be retained save as herein otherwise required and any tree or shrub species subsequently dying shall be replaced.

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

13. (a) A wastewater treatment system (independently certified by IAB, BSI or ISO EN) suitable for a population equivalent of 10 number persons shall be installed, operated and maintained in strict accordance with the supplier's instructions and the 2021 Environmental Protection Agency Code of Practice - Domestic Waste Water Treatment Systems.
- (b) A secondary packaged waste water treatment system shall be installed in accordance with the 2021 Environmental Protection Agency Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), meeting the standards of SR 66 and IS EN 12566 Part 3 and suitable for a population equivalent (PE) six number persons, and must be installed, operated and maintained in strict accordance with the supplier's instructions.
- (c) The secondary treatment plant shall be anchored as per manufacturer instructions for sites with high water tables.
- (d) The wastewater shall be conveyed from the development to the secondary packaged wastewater treatment system via pipework measuring 100 to 110 mm in diameter and shall achieve a minimum fall of 1:40 to 1:60 depending on the material used, as per requirements of Table 7.3 of the Code of Practice.

- (e) Tertiary treatment shall be provided by a packaged filter system (packaged media filter) for tertiary treatment, meeting the standards of SR 66 and IS EN 12566 Part 3 and suitable for a population equivalent (PE) six number persons. The packaged filter system must be installed, operated and maintained in strict accordance with the supplier's instructions.
- (f) The final wastewater from the packaged filter system (tertiary wastewater treatment unit) shall discharge to a 300 mm deep gravel distribution area (pea gravel, 12 32 mm) which shall be sized in accordance with Option 6 of Table 10.1. Chapter 10 of the Code of Practice. In this instance the gravel distribution area shall be no less than 90 square metres.
- (g) There shall be a minimum subsoil depth of unsaturated material beneath the gravel distribution layer and the bedrock/water table. In this instance that required depth will be 0.9m.
- (h) The wastewater treatment system shall be routinely inspected and maintained in accordance with Chapter 12 of the Code of Practice.
- (i) Rainwater, surface water and run-off from paved areas must not be discharged to the secondary wastewater treatment system.
- (j) Grey water (from washing machines, bath and showers) shall be directed to the secondary wastewater system.
- (k) The secondary packaged wastewater treatment system shall be at least seven metres from the proposed dwelling (or any adjacent dwelling).

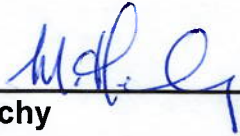
- (l) No part of the percolation area/polishing filter shall be within 10 metres of any dwelling/neighbouring infiltration treatment areas, three metres of the boundary of the adjoining site, four metres of the nearest road boundary, 40 metres from the down gradient domestic well, 10 metres of the nearest stream or ditch, three metres of the nearest trees, and five metres of any surface water soakaway which if located on the site, shall be located down-gradient of the percolation area.
- (m) Documentary evidence detailing a five-year maintenance contract between the applicant/owners and the suppliers of the wastewater treatment system shall be forwarded to the planning authority upon its installation. The wastewater treatment system shall be operated and maintained in accordance with Chapter 12 of the Code of Practice.
- (n) All parts of this condition shall be complied with in full prior to first operation of the facility hereby permitted.

Reason: In the interest of public health.

- 14. 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 15th day of May 2026.

