



An  
Bord  
Pleanála

## Inspector's Report ABP-303928-19

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<b>Development</b>	Erection of a sheep handling unit
<b>Location</b>	Drumlonagher, Donegal Town, Donegal PO., Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	1851907
<b>Applicant(s)</b>	Fidelma Thomas
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Fidelma Thomas
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	8 <sup>th</sup> May 2019
<b>Inspector</b>	Una O'Neill

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## 1.0 Site Location and Description

- 1.1. The subject site is located on the northern side of the N56, which is a bypass to Donegal Town, and is approx. 191m east of the roundabout with the N56 and N15.
- 1.2. The site where the sheep handling unit is proposed, is stated to be 0.14ha in area, surrounding which are a number agricultural fields which are currently used for the grazing of sheep. The farm landholding is stated to be 39 acres in area. The farm is accessed from the northern side of the N56 via a 6m wide agricultural entrance. Inside the entrance a track (parallel to the N56) leads up to the top of a hill where there is a cattle crush and an ESB pylon. The topography of the farm is undulating with steep hills. There is an existing mobile sign on the green roadside verge at the entrance to the agricultural lands from the N56.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following:
  - The provision of a 'sheep handling unit' covering an area of 138 sqm and associated site works.
  - The proposal involves the construction of a rectangular roofless holding area, comprising a 1.4m high wall, approx. 18m long by 8m-8.5m wide, with three gated access points and four internal holding pens within the structure.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission REFUSED for the following reasons:

**R1:** The subject site relates to a field gate access onto the Donegal Town Bypass route where the maximum speed limit applies. It is a policy of the Council not to permit developments requiring new accesses or which would result in the adverse intensification of existing access points onto National Roads where the speed limit is greater than 60kph or roads treated to National Roads Standards. This road is also identified in the County

Development Plan 2018 as being on the Strategic Road Network. Furthermore policy (T-P-7 refer) requires that any new access to strategic roads is designed in compliance with the road design standards required by Transport Infrastructure Ireland, avoiding the use of right turn lanes unless a clear warrant has been established whilst Policy T-P-8 requires that a Traffic and Transport Assessment and Road Safety Audit be completed for any development proposing access to the Strategic Road Network. In the absence of a TTA and RSA and certification of DMRB standards and the absence of detail generally in respect of road type, drainage provision, turning areas, etc., it is considered that the proposed development would materially contravene the aforementioned Policies and Standards of the Donegal Local Area Plan 2018-24, would endanger public safety by reason of a traffic hazard and would be prejudicial to the safety and free flow of traffic on the adjoining National Primary Road. Accordingly to permit the development as proposed would therefore be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- The agricultural access gate is blocked by an advertising sign to the west of the gate. No TTA or RSA or detail of visibility splays have been submitted. This directly contravenes traffic policies T-P-4 and T-P-8 of the plan.

#### 3.2.2. Other Technical Reports

**Engineer Report:** Request for further information in relation to proposed construction details of access road; proposed drainage system, and access road to include turning area at both ends to allow vehicles complete all turning manoeuvres within the site.

### 3.3. Prescribed Bodies

#### Transport Infrastructure Ireland:

- The proposal would create an adverse impact on the national road where the maximum speed limit applies and would be at variance with national policy in relation to control of frontage development on national roads, as outlined in DoECLG Spatial Planning and National Roads Guidance for Planning Authorities (2012).
- Section 2.5 of the guidelines states that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kph apply. The proposal if approved would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads.

### 3.4. Third Party Observations

None.

### 4.0 Planning History

None.

### 5.0 Policy and Context

#### 5.1. National Policy

- Spatial Planning and National Roads Guidance for Planning Authorities (DoECLG, 2012)

#### 5.2. Development Plan

##### 5.2.1. County Donegal Development Plan 2018-2024

- **T-P-4:** It is a policy of the Council not to permit developments requiring new accesses or which would result in the adverse intensification of existing access points onto National Roads where the speed limit is greater than 60 kph ....
- **T-P-7:** It is a policy of the Council to require that any new access to strategic roads is designed in compliance with the road design standards required by Transport Infrastructure Ireland, avoiding the use of right turn lanes unless a clear warrant has been established.
- **T-P-8:** It is a policy of the Council to require a Traffic and Transport Assessment and Road Safety Audit for any development proposing access to the Strategic Road Network.

#### 5.2.2. **Seven Strategic Towns Local Area Plan 2018-2024**

- **Donegal Town**, section 9
- **Zoning:** Local Environment – to provide for limited one-off housing and small scale economic development so as to ensure the continued settlement pattern and sequential and transitional development of the towns through to rural areas.

#### 5.3. **Natural Heritage Designations**

The site is not located within or adjacent to a Natura 2000 site.

#### 5.4. **EIA Screening**

Having regard to the minor nature and scale of the proposed development and its location removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal is submitted by the applicant and the issues raised are summarised below:

- The applicants live in Sruell, nine miles from Donegal where the principle family landholding is located. The farm at Drumlongher (appeal site) was purchased in 2016 to provide additional grazing for sheep and ewes for when they have finished wintering in sheds at the home farm. Approx. 60 ewes and 120 new born lambs graze on the lands from May to November after which there are housed indoors at the family farm.
- The purpose of the sheep handling unit is to manage and handle the flock. There is an existing cattle crush and pen on the site and it is proposed to put the sheep handling unit beside this. The cattle crush on the site was used by the previous farmer for his cattle stock, but it is not suitable for sheep handling.
- This proposed location of the sheep handling unit is at a high point on the site where the four fields on the farm meet and is therefore the most appropriate location as the sheep can be gathered into the corner of each field and from there directly into the pen. The site is well screened and the proposal is similar in height to the existing cattle crush.
- There is an existing agricultural entrance with a 6m wide gate. This is set back 7.8m from the carriageway edge of the N56. As you enter the farm there is a deep surface water drain on the left and the internal farm road turns right. This road is stoned and is satisfactory for farm access. Photos are attached showing the site.
- Sightlines: Appendix 4 drawing no. 1289/1 shows sightlines at the existing entrance measured from a point 2.4m from the carriageway edge of the N56. There is a roundabout 200m from the site which acts as a natural traffic calming measure. A sightline well in excess of 215m is available to the east.

- Existing Agricultural Entrance: The entrance and farm roadway was constructed by Donegal County Council for the previous landowner as part of the sale of land to Donegal County Council for the construction of the Donegal Town Bypass. Attached in appendix 5 is a drawing from Donegal County Council engineers showing the access and road track that was to be constructed as part of the bypass development. The field gate was installed at the indicated location.
- The agricultural entrance, as built by Donegal County Council as part of the N56, is a permitted agricultural entrance onto the N56 and has permission.
- Intensification of Use: The existing cattle crush is not suitable for lambs and ewes. As a result sheep have to be transported to the family landholding at Sruell, nine miles from the site for dosing, shearing or tagging. 180 sheep are moved to the farm at Drumlongher (appeal site) on week ending 17<sup>th</sup> May each year and remain there until lambs are sold on week ending 13<sup>th</sup> September. The ewes are rehoused in Sruell on week ending 30<sup>th</sup> November.
- The applicant has submitted figures for the number of traffic movements required 'without sheep pen' (253 visits) and 'with sheep pen' (184 visits), indicating movements required by trailer if sheep pen not provided. Both scenarios include 168 daily visits as the sheep have to be looked at every day. The provision of a sheep handling unit would result in a reduction of 69 visits per annum, which equates to a reduction in intensification of 27%.
- Surface Water Run Off: This does not discharge to the N56 but drains to a large roadside drain, which is approx. 5m deep and 4m wide on top. There is a fall of 230mm from the edge of the N56 to the existing ground level at the centreline of the agricultural entrance and no surface water discharges from the internal farm road or landholding onto the road. There is an existing turning area in the field at the entrance and at the proposed sheep pen.
- Health and Safety: Cattle and sheep require different types of handling units. There is a health and safety risk to both farmer and animals. Furthermore the Department of Agriculture require a sheep handling unit on the landholding for proper sheep management.



- Unauthorised road side advertisement: The edge of the trailer is 1.7m off the edge of the N56, which is less than the 2.4m required for visibility and it obstructs sightlines to the east. Donegal County Council are the appropriate authority to address this issue as the N56 is a public road. This trailer represents the only traffic hazard.
- The proposed sheep handling unit comes within exempted development provisions, as per part 3, exempted development, rural agricultural structure class 8.
- Reasons for refusal: Policies T-P-7 and T-P-8 do not apply as this is not a new access and no intensification of use of the entrance is proposed and the traffic movements as set out would not affect the traffic flow on the N56.

## 6.2. Planning Authority Response

The planning authority note that the principle of the development and the issues of siting/design did not form the basis for the refusal reason. This was based solely on traffic safety considerations and the absence of requisite details as outlined in the planner's report and subsequent refusal reason. The planning authority requests that ABP uphold the decision of the planning authority.

## 6.3. Observations

**Transport Infrastructure Ireland:** The proposal is at variance with national policy to control development on/affecting national roads, as outlined in DoECLG Spatial Planning and National Roads Guidance for Planning Authorities (2012) as the proposal would adversely affect the operation and safety of the national road network for the following reasons:

- The proposal would create an adverse impact on the national road where the maximum speed limit applies and would be at variance with national policy in relation to control of frontage development on national roads.
- Section 2.5 of the guidelines states that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to

national roads to which speed limits greater than 60kph apply. The proposal if approved would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads.

#### **6.4. Further Responses**

None.

#### **7.0 Assessment**

- 7.1. The subject site is located on agricultural land, accessed from the N15 by an existing agricultural gate. The applicant is proposing to erect a sheep handling unit on the lands, with access via the existing agricultural access. There is an existing track leading from the access up a hill along the edge of the lands to an existing cattle handling unit, with access from the unit on all sides into the surrounding fields where a small number of sheep are located. The proposed sheep pen/handling unit is located within the farmland, on the top of a very steep hill and is stated by the applicant to be required to replace an existing system designed for cattle, which does not function appropriately for sheep.
- 7.2. I consider that the relevant issue in determining the current appeal before the Board relates to traffic and access.
- 7.3. The TII has objected to the proposed development on the basis of Spatial Planning and National Roads Guidance for Planning Authorities (2012) indicating the proposal will result in an intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads.
- 7.4. The planning authority's reason for refusal relates to the intensification of an existing access onto a national road which is part of the strategic road network for Donegal Town, citing policies T-P-7 and T-P-8. It is stated the proposed development would materially contravene these policies and standards of the Donegal LAP 2018-2024, would endanger public safety by reason of a traffic hazard and would be prejudicial to the safety and free flow of traffic on the adjoining National Primary Road.

- 7.5. The applicant accesses the existing farmland via an existing agricultural access onto the N56. The applicant states the sheep pen will de-intensify traffic movements as 180 sheep, which are grazed here from May to November, can be properly managed on the site and would not need to be moved to the family landholding nine miles from the site where there are sheep handling facilities. The applicant has submitted figures demonstrating existing and anticipated traffic movements. I accept the overall traffic figures submitted which indicate no intensification of the entrance will result from the construction of a sheep handling unit on an existing farm used for the grazing of sheep.
- 7.6. The applicant has submitted documents which indicate that this agricultural entrance was constructed by Donegal County Council at the time of the construction of the N56 and sightlines are achievable in both directions. I am satisfied that adequate sightlines exist for the site, albeit they are currently impacted upon by a mobile signage unit located outside the site on the public road. I note that no traffic accidents at this entrance have been recorded and the agricultural entrance is functioning. At the time of site inspection access to and from the site was not hazardous. Given the location and design of the entrance and taking account of the low level of movement to and from the site, which is limited to six months of the year, and likely outside of peak traffic hours, I do not consider that the existing entrance is hazardous nor does it impair the flow of traffic on the N56. It is my view that a Traffic Impact Assessment and Road Safety Audit is not required given the access is an existing permitted agricultural access, not a new access, and no intensification of use of the entrance will arise as a result of the development.
- 7.7. With regard to the existing mobile signage on the verge of the public road, outside of the agricultural entrance, this is a matter for Donegal County Council enforcement section and is not within the remit of An Bord Pleanala.
- 7.8. I am of the opinion that the use of the term 'materially contravene' in the planning authority reason for refusal is not justified. I consider the refusal reason of a material contravention of T-P-7 and T-P-8 to be an erroneous interpretation of the development objectives in the development plan given the access is an existing access, and the sheep handling unit does not relate to a new development but relates to facilities ancillary to the operation of the existing farming land use, which is

not proposed to be intensified or materially altered, therefore the Board should not consider itself restrained by section 37(2).

### **Appropriate Assessment**

7.9. Having regard to the minor nature of the development, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

8.1. It is recommended that permission is granted.

## **9.0 Reasons and Considerations**

Having regard to the provisions of the County Donegal Development Plan 2018-2024, the site context, the existing pattern of development in the area, and the nature and scale of the proposed development, which does not result in the intensification of an existing agricultural access onto a national route, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or result in a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.
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	<b>Reason:</b> In the interest of clarity.
2.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining road is kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.</p> <p><b>Reason:</b> To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.</p>

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Una O'Neill  
Senior Planning Inspector

19<sup>th</sup> June 2019