



An
Bord
Pleanála

Inspector's Report ABP-304625-19

Development	Retention of two commercial storage units and existing service yard.
Location	Massreagh, Kilmacrennan, Letterkenny, Co Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	1851208
Applicant(s)	Alan Sweeney.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Daniel O'Donnell
Observer(s)	None.
Date of Site Inspection	6 th November
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The site is located in a predominantly residential area to the south west of Kilmacrennan town. Kilmacrennan is a Layer 3 settlement comprising of predominantly residential development and limited services such as schools and convenience store. There is no economic core to the settlement and industrial type development appears to be located at the periphery of the settlement in a piecemeal pattern.
- 1.2. The appeal site comprises a commercial yard containing 2 no. large storage sheds bounded by palisade fencing and forms part of the overall landholding associated with the dwelling to the north.
- 1.3. The site also contained a number of trucks and associated scaffolding materials were present in the yard at the time of inspection.
- 1.4. The lands rise to the north west with individual dwellings to the rear on elevated sites and there is an open field abutting the site to the south east.
- 1.5. The site is accessed via a 6 metre road which serves residential development in the vicinity and a number of cars parked on street were noted at the time of inspection.

2.0 Proposed Development

- 2.1. It is proposed to retain 2 no. commercial storage sheds and associated yard.

3.0 Planning Authority Decision

3.1. Decision

Donegal County Council determined to grant permission subject to standard conditions. Condition no. 4 is of relevance and refers to the treatment of soiled and runoff waters. It is required that these waters are directed to the proposed attenuation tank to be treated via a sediment and hydrocarbon interceptor prior to discharge.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planners report is consistent with the decision of the local authority. Further information was requested and can be summarised as follows:

- Details of activities on site, such as nature of the business, hours of operation, traffic, staff, details of historic use of the site.
- Details of existing treatment and disposal of waste water.
- Details of how storm water and soiled waters are to be separately collected and disposed of.
- Revised plans demonstrating upgrade for collection and disposal of soiled waters and storm waters.
- Written consent from third party landowner to dispose surface water across lands.
- Submission of an ecological report.
- Documentary evidence of legal right of way to access the site.

3.2.2. Other Technical Reports

- Roads Department – sought FI in relation to storm drainage.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

One submission was received, the issues raised are summarised within the grounds of appeal below.

4.0 Planning History

There is no recently recorded history for the appeal site however the following is of relevance:

Appeal Site

18/50353 – an application was withdrawn for an extension to the existing industrial storage unit.

Site to north east

951396- permission was granted to the applicant for a dwelling

5.0 Policy Context

5.1. Development Plan

Donegal County Development Plan 2018-2024

The appeal site is located within a layer 3 settlement as identified within the Donegal County Development Plan 2018-2024

- Section 3.2 The Strategy for Renewal and Regeneration of Towns and Villages

Many of the smaller towns and villages in Layer 3 are predominantly residential in character and it is anticipated that their existing character and function will remain as primarily residential clusters of housing. However, these settlements play a vital role in providing accommodation for a significant proportion of the County's existing population and in supporting rural communities.

- Policy TV-O-2: To identify appropriate regeneration and renewal initiatives, primarily through enhancement schemes to strengthen communities in specific Layer 3 rural towns/areas namely; Churchill, Convoy, Dunkineely, Kilmacrennan, Mountcharles, Newtowncunningham and St. Johnston.
- Policy ED-P-3 - Within designated Settlement Framework areas, it is a policy of the Council to consider economic development proposals involving an

industrial building or process (as defined in Article 5 of the Planning and Development Regulations 2001, as amended) in the following circumstances and subject to the provisions of Policy ED-P-2 and ED-P-14:

On land zoned for such use in this Plan or future Local Area Plans; or in an existing industrial/employment area.

Elsewhere within settlement framework areas, proposals for an industrial use or process will be considered only in Layer 1 and Layer 2 settlements, and where it can be demonstrated that: there is no available zoned land or land on an existing industrial area; that the proposal is for a firm rather than speculative proposal; the development would be compatible with the locality; and that the development would make a substantial contribution to the economy of the area.

- ED-P-5: Within designated Settlement Framework areas it is a policy of the Council to consider economic development proposals involving a warehouse or storage use (as defined under 'Repository' in Article 5 of the Planning and Development Regulations 2001, as amended) in the following circumstances and subject to the provisions of Policy ED-P-2 and ED-P-14:

(a) On land zoned for such use in this Plan or any future Local Area Plans or on an existing industrial/employment area, provided the proposal meets the following criteria:- (i) It is compatible with any existing industrial/employment use and will not detract from its continuation or expansion; (ii) It will not lead to significant loss of available industrial land locally or in the wider plan area.

(b) Elsewhere within settlement framework areas, proposals for warehouse/storage use will be determined on their individual merits having regard to the scale of the proposal relative to the scale and character of the settlement, the availability of necessary infrastructure and compliance with Policy ED-P-14.

(c) Proposals for warehouse/storage use will not normally be approved outside the settlement boundary unless related directly to a site specific product resource or a project under the terms of any of the Policies ED-P-8 to ED-P-13. Natural Heritage Designations.

- ED-P-14: It is a policy of the Council that any proposal for economic development use, in addition to other policy provisions of this Plan, will be required to meet all the following criteria;
 - (a) It is compatible with surrounding land uses existing or approved;
 - (b) It would not be detrimental to the character of any area designated as being of especially high scenic amenity (ehsa);
 - (c) It does not harm the amenities of nearby residents;
 - (d) There is existing or programmed capacity in the water infrastructure (supply and/or effluent disposal) or suitable developer-led improvements can be identified and delivered;
 - (e) The existing road network can safely handle any extra vehicular traffic generated by the proposed development or suitable developer-led improvements are identified and delivered to overcome any road problems;
 - (f) Adequate access arrangements, parking, manoeuvring and servicing areas are provided in line with the development and technical standards set out in this plan or as otherwise agreed in writing with the planning authority;
 - (g) It does not create a noise nuisance;
 - (h) It is capable of dealing satisfactorily with any emission(s);
 - (i) It does not adversely affect important features of the built heritage or natural heritage including natura 2000 sites;
 - (j) It is not located in an area at flood risk and/or will not cause or exacerbate flooding;
 - (k) The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;
 - (l) Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;
 - (m) In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape;

(n) It does not compromise water quality nor conflict with the programme of measures contained within the current north western river basin (nwirbd) management plan.

5.2. EIA Screening

5.3. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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

An appeal has been prepared by Daniel O'Donnell on behalf of Manus O'Donnell who owns the undeveloped lands to the south east of the site. The grounds of appeal can be summarised as follows:

- The development has the potential to impact on the Natura 2000 site and cause deterioration of the water quality in the Leannan river resulting from storm/ surface water runoff.
- It should be determined whether an EIA is required.
- Retention should not be accepted if development requires a EIA or NIS.
- Applicant has failed to demonstrate that development will not impinge on nearby watercourses.
- Chemicals used for cleaning scaffolding are toxic to aquatic life.
- Applicant has failed to demonstrate how waste water is to be treated and disposed of.
- The intensified traffic movements and nature of the vehicles accessing the site through a residential area and passing a school has potential for a traffic hazard, the applicant had failed to demonstrate that there will be no road safety issues.

- Noise created at the site will have a negative impact on residents of the area.
- Drawings do not show where drainage from site connects with drainage of appellants lands.
- Flooding may occur.

6.2. Applicant Response

Michael Friel has prepared a response on behalf of the applicant which can be summarised as follows:

- The business has been in operation for over 20 years.
- Company employs 14 staff.
- Only 4-5 are present on weekdays for a limited period.
- Yard is largely locked up between 9-5 and is operational for several hours on Saturday morning.
- Use is only for storage.
- No growth in business.
- Timber boards stored inside shed.
- No chemicals used and no engineering works on site.
- The issue of chemical run off does not arise.
- Development is moderate in scale.
- Boundary treatment can be enhanced if required.
- Examples of light industrial operations within the environs have been provided.
- The River Leannan is removed from the site and an urban road lies between site and river.
- Notwithstanding that the storage is dry in the yard the applicant is willing to install and hydro-carbon interceptor on site.

- The appellants lands have never flooded but are poorly drained lands, the proposed development does not exacerbate surface water flooding of these lands.
- Surface water from site will be redirected and will not enter Mr O'Donnell's site.
- No WC facilities are required as the shed is only storage and not used during the day. The yard is in close proximity to the applicant's house and facilities are available there.
- The access road is adequately sized to cater for traffic to the site.
- No customers visit the site all orders are done over the phone.
- Surface water drains to a right of way area which is covered in stone.
- An attenuation system is proposed.
- Buffer at boundary with appellants site allows discharge to slow down and levels of surface runoff would be significantly smaller to that of the adjoining road.
- The proposed attenuation system will prevent any surface water from entering the appellants lands.

6.3. **Planning Authority Response**

- No further comments, all matters raised within the appeal have been addressed within the planners' report.

6.4. **Further responses**

The appellant has submitted a response to the applicants' response to the appeal. No new issues arises within this response and all items have been raised within the ground of appeal.

7.0 **Assessment**

- 7.1. This is a third-party appeal against Donegal County Council's decision to grant permission for the retention of 2 no. commercial sheds. The site is located to the

south west of Kilmacrennan village which is a layer 3 settlement as designated within the Donegal County Development Plan 2018-2024 in which it is the policy of the Council to permit storage and warehousing development within the framework boundary of such settlement subject to compliance with ED-P-14. It is important to note at this juncture that Kilmacrennan is a small settlement with no designated economic or industrial development area. Industrious development is limited within the town and is largely located outside of the framework boundary. In essence I did not observe any suitable alternative sites for such development within the settlement.

7.2.

7.3. The main issues relating to this appeal are those raised within the grounds of appeal. I note that the issues raised are similar to the requirements of policy ED-P-14 with which such developments are required to comply.

7.4. I am satisfied that no other substantive issues arise. The issues for consideration before the board can be summarised as follows:

- Surface Water drainage and flooding
- Impact on water quality
- Traffic
- Noise
- Appropriate Assessment

Surface Water drainage and flooding

7.5. It is contended by the appellant that the applicant has failed to demonstrate exactly where the proposed surface water drainage will link into the adjacent drainage and how flooding of the property will be prevented. The applicant in the response to the grounds of appeal employed DSM Consulting Engineers to report on the issues pertaining to surface water arising from the development and the impact if any to adjoining lands.

7.6. It was reported by DSM that the lands to which the appellant refers have been inspected and it is stated within this report that these lands have always been prone to flood as the surrounding lands drain to this corner and there is no evidence of any

outfall at this point. It was accepted that the development has had an impact on these lands in relation to increased runoff.

- 7.7. However, the engineers report refers to the existing right of way to the south east of the site and the presence of an area of uncompacted stone of c. 3 metres to the end of the property which acts as a natural attenuation area for the appeal site and slows the discharge to the appellants lands. The actual quantum of discharge therefore is considered to be low. The report also notes that the surface water from the existing public road flows in the direction of the appellants lands and has the potential to increase discharge to these lands.
- 7.8. Notwithstanding the low levels of discharge accounted for within the engineers' report submitted, the applicant is proposing to install a surface water collection system which will take all the run off from the roofs and hard stands within the appeal site and divert it through a hydrocarbon interceptor on site. It is contended by the applicant within the engineers' report that the installation of this system will ensure that no water enters the appellants lands from the appeal site.
- 7.9. I have reviewed the information submitted with both the appeal and the application and consider that the proposed surface water attenuation is adequate in this instance given the level of activity occurring on site and the nature of the use as storage. The collection and treatment of all surface water on site and the diversion of same to the public surface water drainage system will prevent any impact to the appellants lands in this regard. I note that Donegal County Council Engineers are satisfied with the proposed arrangement and I therefore recommend that if the board is of a mind to grant permission that a condition is imposed which requires full details of the attenuation system to be submitted and agreed with the Local Authority.

Impact on Water quality

- 7.10. It is contended by the appellant that the proposed development will negatively impact the water quality of the River Leannan and as such will have a negative impact on the qualifying interests of the SAC which are water sensitive. The Leannan SAC is located c. 216 metres south east of the site and will be connected to the site via the public surface water drainage system. It is important to note at this juncture that the proposed development is for the storage of scaffolding poles and wood. I note from the applicant's response to the grounds of appeal that no chemicals are to be used

on site and that the storage of the boards is mainly inside the existing sheds in order to prevent rot. I also note that it is stated within the applicant's response that the issue of chemical or contaminated run off or sprayed or treated products does not arise as these operations do not occur at this site. No reference has been made to the cleaning of scaffolding, however I consider that this issue can be adequately dealt with by condition.

- 7.11. Thus, in the absence of any chemical treatment occurring and having regard to the proposal to install a hydrocarbon interceptor within the site I consider the potential for impacts on water quality to be unlikely.

Waste Water

It is stated within the grounds of appeal that the applicant has failed to demonstrate how waste water is to be treated on site given that there are to be 10 employees. The applicant has rebutted this concern and states that the proposed development is a storage facility whereby staff will pick up the materials to be taken to a site. It is further stated that staff do not remain on site and that the facility is generally locked up between the hours of 9 and 5. It is also stated that the applicants' home is located adjacent to the site and employees can use the facilities at his house should they need to. It is stated therefore that given the nature of the use and the proximity of the site to the owners dwelling that there is no need for welfare facilities at the shed. I consider the current arrangements in this regard to be acceptable.

Traffic

- 7.12. It is contended by the appellant that the applicant has failed to demonstrate that the proposed development will not give rise to road safety hazards. The appellant goes on to state that the proposed development will employ 10 people and is accessed by large vehicles multiple times of the day which exacerbates traffic issues on an already overcrowded rural road.
- 7.13. The applicant responded to the appellants concerns and stated that the existing public road leading to the appeal site is 6 metres wide, is straight in its alignment and has a footpath along the frontage of the four local authority houses to the east. Each

dwelling has its own driveway and parking. The existing business has three trucks of which 2 will leave the yard early in the morning and come back in the afternoon. The yard is locked for most of the day and no customers come to the site as the scaffold is ordered by phone. It is therefore stated by the applicant that the development does not give rise to traffic disturbance during the day.

- 7.14. I have inspected the site and the surrounding road network and note that the width of the road narrows for a short section on the approach to the site, however there is a footpath serving dwellings along this section of the road. Thus, having regard to the limited number of vehicle movements associated with the development and that adequate visibility can be achieved at the junction of the minor road with the R249 I do not consider the additional traffic generated from the development to be significant or to give rise to a traffic hazard.

Noise

- 7.15. The appellant has raised concerns in relation to the noise generated from activities on site early in the morning. It is stated that operations can commence prior to 7.30am and the noise generated has an adverse impact on the residents of the area.
- 7.16. The applicants have stated that lorries are loaded up from 7.30am and leave site not to return until the afternoon. The site is not used during the day and is used on Saturday for several hours. I do not consider the nature of the activities on site and number of operational hours to be significant in relation to overall noise generation impact. Traffic noise in general is busy from 7.30am on weekdays and slightly later at weekends. I consider that noise impacts can be adequately controlled by condition and if the Board is of a mind to grant permission, I recommend a condition restricting the hours of operation is imposed.

Appropriate Assessment

- 7.17. As mentioned above the appeal site is located c. 216 metres west of the River Leannan SAC. The River Leannan is designated for the following features of interest which are sensitive and dependent on water quality:
- Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]

- Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]
- Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]
- Salmo salar (Salmon) [1106]
- Lutra lutra (Otter) [1355]
- Najas flexilis (Slender Naiad) [1833]

7.18. The proposed development will not give rise to any contamination in terms of chemicals and is separated from this SAC by a public road and housing. Therefore, having regard to the minor nature of the development, its location in a serviced urban area, 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. I recommend that permission is granted subject to the following conditions:

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Donegal County Development Plan 2018-2024 the existing pattern of development in the area, and the nature and scale 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 amenities of the area or of property in the vicinity and would not give rise to a traffic hazard or exacerbate flooding in the area and would not impact on the integrity of the River Leannan SAC in view of the site's conservation objectives. 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 retained 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 within one month of the permission and the development shall be carried out and retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Within 1 month of permission the applicant shall submit for the written agreement of the Local Authority full details of the proposed attenuation scheme and hydro carbon interceptor. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

3. The 2 no. commercial structures and service yard hereby permitted shall be used solely for the storage of scaffolding equipment in conjunction with the applicants existing scaffolding business only and shall not be used for any other commercial purposes without the prior written agreement of the Planning Authority.

Reason: In the interest of orderly development.

4. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

5. The site shall operate only between the hours of 0800 to 18.00 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 residential amenities of property in the vicinity.

6. Floodlighting shall be angled and constructed so that no light is emitted above a horizontal plane through the fitting. Positioning and design shall also ensure that no glare is caused to users of the public roads in the vicinity of the development.

Reason: In the interest of traffic safety.

7. 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 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.

Sarah Lynch
Planning Inspector

13th November 2019