



An
Bord
Pleanála

Inspector's Report ABP307482-20

Development	Groundworks to reduce the site level for Agricultural Shed and Construction of an Agricultural Shed for wintering cattle.
Location	Binnion, Clonmany, Lifford P.O., County Donegal.
Planning Authority	Donegal County Council.
Planning Authority Reg. Ref.	19/51608.
Applicant	William Doherty.
Type of Application	Retention of Planning Permission and Planning Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellants	(i) Michael and Mary Doherty. (ii) Owen and Deborah Doherty.
Observers	None.
Date of Site Inspection	2 nd October, 2020.
Inspector	Paul Caprani.

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2.0 Introduction

ABP307482-20 relates 2 no. third party appeals against the decision of Donegal County Council to issue notification to grant planning permission for groundworks to reduce the site level for an agricultural shed together with the construction of a shed for wintering cattle at a site to the north of the village of Clonmany on the Inishowen Peninsula in County Donegal. Both third party appeals raise concerns in relation to the unauthorised works undertaken on site, the intended use of the proposed garage and impacts on residential amenity primarily through adverse visual impact and traffic impacts. Issues in relation to appropriate assessment were also raised in both appeals.

3.0 Site Location and Description

3.1. The appeal site is located in townland of Binnion north of the village of Clonmany on the Inishowen Peninsula. The subject site is located approximately 11 kilometres due west of the town of Carndonagh. Ballyliffin Golf Course is located approximately 4 kilometres to the north-east. The access road which serves the site is a relatively narrow third-class road which runs northwards to the small picturesque Tullagh Bay. The access road accommodates largescale ribbon development, some of which appear to be holiday homes. The subject site is located at the northern end of the access road on the eastern side of the access road. It is located to the immediate north of where the existing ribbon development on the eastern side of the road terminates. The site is rectangular in shape and occupies an area of 0.57 hectares. It has a road frontage of approximately 70 metres and a depth of c.80 metres. The land to the rear (east) incorporates a steep upward slope towards Tandagree Hill which is located further to the south-east. The land is relatively flat and is currently under grass. A large amount of excavated rock is piled in the south eastern area of the site where the proposed shed is to be located. A two-storey dwellinghouse is located on lands to the immediate south of the subject site. There is no development on lands to the immediate north. The site itself is bounded by a post and wire fence together with a semi-mature hedgerow. A small shed is located opposite the site and

another two-storey dwelling is located on the western side of the road to the north-west of the site.

4.0 Proposed Development

- 4.1. Planning permission is sought for the following:
- 4.2. The retention of groundworks to reduce the site level in order to accommodate a new agricultural shed for the housing of cattle during the winter period. The proposed shed is rectangular in shape and is 28.9 metres long and 15.2 metres wide. A single sliding double door is proposed on its western (front) elevation. It rises to a height of approximately 6.5 metres and incorporates coated metal roof sheeting with a metal cladding beneath. A smooth render finish is proposed for the bottom portion of the shed. Sliding double doors are also proposed on both side elevations. The shed has a gross floor area of 426 square metres.

5.0 Planning Authority's Decision

5.1. Decision

- 5.1.1. Donegal County Council issued notification to grant planning permission subject to 13 conditions.

5.2. Documentation Submitted with the Application

- 5.2.1. The planning application was lodged on 22nd October, 2019. It was accompanied by a report from an Agricultural Consultant. The report states that the application provides for the retention of site development works and the excavated material has been used to reclaim some of the low lying lands on his farmholding and it is the applicant's intention to reclaim the remainder of the low lying lands. The improvement of the lands involves stripping back the top layer of soil and peat and placing a layer of rocks and stones beneath the soil and peat in order to improve drainage. The works which have been undertaken to date have greatly improved the quality of the land. A Traffic Speed Assessment Report noted that the average speed of traffic travelling along the road was c.23 kmph. Also submitted is a letter from the

adjoining landowner giving consent to the applicant to carry out all required remedial works to achieve appropriate sightlines at the entrance.

- 5.2.2. A number of letters of objection have been submitted objecting to the proposed development, the contents of which have been read and noted. The issues raised include the visual impact arising from the proposed development and the concern that the proposed shed may be used to house the applicant's second hand machinery business on site.
- 5.2.3. A further letter from the applicant dated 10th December, 2019 requested to extend the period for making a decision by an additional six months.
- 5.2.4. The planner's report sets out details of the proposed development and notes that the Road Report submitted in respect of the application raised no objections subject to standard conditions. The various third party observations and the responses to same by the Planning Authority in respect of the issues raised are set out in the report. The report goes on to set out the policies and provisions contained in the local development plan.
- 5.2.5. Section 9 of the report sets out the planning assessment. It notes that the principle of development is 'open for consideration' and the overall siting and design is considered to be appropriate. Reference is made to decisions by An Bord Pleanála which granted planning permission for similar type livestock sheds in the area. However, the separation distances between these sheds were in excess of 30 metres. In this regard the applicant should be required to set the shed a further distance away from third party dwellings. The planner's report concluded that the proposed application is acceptable subject to the relocation of the shed within the site. In this regard Condition No. 2 required that, prior to the commencement of development, the developer shall submit to the Planning Authority revised drawings and elevations for a shed drawn to a scale of 1:100 and that the shed be relocated at least 30 metres from the house on the adjoining lands to the south and at least 80 metres from the house to the north-west of the site and at least 40 metres from the centreline of the public road.
- 5.2.6. Also included as part of the planning report was an appropriate assessment screening report which concluded that a Stage 2 Appropriate Assessment was not required as it can be excluded on the basis of objective scientific information. The

screening assessment concludes that the proposed development either individually or in combination with other plans or projects will not have a significant effect on a European site namely the North Inishowen Coast Special Area of Conservation.

6.0 Planning History

6.1. No history files are attached. However, the Board should be aware of two recent referral cases which was determined under Reg. Ref. ABP305482 and Reg. Ref. ABP306103-19. The questions before the Board was whether land reclamation through recontouring of lands within farmholdings is or is not development or is or is not exempted development. The referrals were made by the current applicant. The Board determined that the excavation and removal of rock within the subject site constitutes development and falls within the definition of quarrying. The Board determined in the case of both referrals that the land reclamation through the recontouring of lands is development and is exempted development with the exception of one of the fields where the Board determined that the recontouring of land is development and is not exempted development as this field does not form part of the farmholding. The Board also determined that the development would not be likely to have a significant effect on the North Inishowen Coast SAC (Site Code: 0020120) or any other European site in the vicinity.

7.0 Grounds of Appeal

7.1. The decision of Donegal County Council to issue notification to grant planning permission was the subject of two separate third party appeals submitted on behalf of (a) Owen and Deborah Doherty of Binnion, Clonmany, Inishowen and (b) Michael and Mary Doherty of Binnion, Clonmany, Inishowen. Both appeals were submitted on behalf of the appellants by Canavan and Associates and the issues raised in both appeals are similar and therefore the issues raised in both appeals are set out under subheadings below.

7.1.1. Unauthorised Works

The appellants have very serious concerns in relation to the excavation which has been undertaken on site. It is stated that a large pile of stones and boulders and scarring on the hill to the rear has taken place.

7.1.2. Intended use of the Structure

Concerns were expressed that the intended use of the shed may not be for agriculture as described. The applicant has deposited various machinery and metal including pipes at various locations on land under his control and along the public road. Photographs are attached purporting to illustrate this. Local residents and the appellants are concerned that the actual use of the shed will be for items not related to a working farm such as second hand machinery, scrap metals etc. It is suggested that the size and scale of the shed is way in excess of the current livestock housing needs of the applicant. It is suggested that the breed of cattle owned by the applicant can live outdoors all year.

The drawings submitted refers to a dry bed agricultural shed. This implies a straw bedding and no liquid slurry collection. This dry waste of bedding and manures would have to be stored externally within the site which in turn could cause seepage to groundwaters and create pollution. No slurry tanks are shown under the shed floor or in this shed sections. The site layout plan indicates that the large double doors would face towards the southern site boundary. These doors will be very close to the site boundaries and would not permit ease of access for agricultural machinery. The grounds of appeal go on to summarise the referral made by the applicant under Reg. Ref. ABP306103. No details are provided in relation to the applicant's actual landholding or numbers of livestock on the farm.

7.1.3. Residential Amenity Concerns

It is reiterated that residents are concerned that the large shed will be used for non-agricultural purposes. Even if agricultural use is proposed it is argued that the sheds can be noisy and give rise to malodours from farm wastes.

7.1.4. Visual and Landscape Impact

It is noted that the site is located in a highly scenic amenity area and in close proximity to "especially high scenic amenity area". It is argued that the landscape on which the subject site is located is of high landscape and visual amenity value. The rock scarring to the rear of the site resembles quarrying activity which is highly intrusive and industrial in character.

7.1.5. Traffic and Access

The traffic survey undertaken was only for a duration of 1 hour on one day and it is not a representative traffic survey. No reference was made to the seasonal caravan park and camping ground both of which are located at the end of the roadway serving the site. The public road is also used by local walkers who use the beach and visit historic sites to the north. It is also suggested that turning into or egressing out of the proposed entrance will be difficult for agricultural traffic having regard to the substandard nature of the road.

7.2. **Appropriate Assessment**

- 7.2.1. It is stated that the screening assessment report undertaken by Donegal County Council did not involve a hydrogeologist. There is a potential hydrological pathway connecting the site to the Clonmany River which discharges into the North Inishowen Coast SAC to the north of the site (Site Code: 002012).
- 7.2.2. Reference is made to attached maps which show two ponds within the footprint of the excavation and the proposed shed. These are linked via drainways to the Clonmany River. No details are provided regarding construction methodology or how watercourses near the site would be protected. There could be possible significant effects giving the relative proximity of the river at less than 500 metres distance from the site. It is also stated that the Clonmany River to the west is a salmonid river with Salmon and Sea Trout. It is stated that there was no consultation with Inland Fisheries Ireland and likewise no correspondence was received from the National Parks and Wildlife Service in respect of the application.
- 7.2.3. The grounds of appeal go on to set out as to how the proposed development results in a non-compliance with various policy statements contained in the development plan. Reference is specifically made to Policy EDP-10 and EDP-14.
- 7.2.4. By way of conclusion and without prejudice the appeals recommend that, if the Board decide to grant planning permission, a number of conditions would be attached to any grant.
- 7.2.5. The appeal is submitted on behalf of Owen and Deborah Doherty also include a number of figures, maps and plates which are not included in the other appeal. This appeal also includes a USB with a video of a rock hammer/himac digger excavating the lands behind the site.

7.2.6. This appeal also suggests that the applicant is not a full time resident of the locality and has been residing in England and only returning for a short time period during the summer. This latter appeal also suggests that the proposal contravenes a number of natural heritage objectives and policies contained in the development plan.

8.0 Appeal Responses

8.1. Donegal County Council issued two separate responses to the grounds of appeal which are set out below:

- The applicant seeks to regularise the works carried out. The proposed shed would screen the scarring of what was a natural craggy hillside with rock outcrops prior to excavation. The applicant carried out the excavations under the understanding that the works were exempt from the need to obtain planning permission under Article 8(c) of the Planning and Development Regulations 2001.
- If any unauthorised use was to commence on site the Planning Authority would initiate enforcement proceedings.
- It is not considered that the size and scale of the shed is excessive when considered against the exempted development regulations relating to agricultural structures.
- A condition of the Planning Authority's decision to grant was that the proposed shed was to be located at least 30 metres from the nearest residential dwelling.
- It is considered that traffic speeds are low on this narrow minor cul-de-sac.
- The Planning Authority is not aware of any drain connecting the site and the ponds on site directly with the local drainage network. Notwithstanding this, even where an underground drain exists the Planning Authority considers that any threat to the Clonmany River would not be significant by virtue of the level of dilution and dispersion. The development was screened for appropriate assessment and it was concluded that the proposal would not have an adverse impact on European sites in the vicinity.

- The Planning Authority does not concur that its decision to grant planning permission materially contravenes any of the policies set out in the County Donegal Development Plan.

8.2. An additional report received by the Board on 10th August, 2020 provides some additional points and these include the following:

- It is noted that the Board deems the excavation of rock at this site to be exempted development insofar as it is for the purposes of land reclamation within the overall landholding.
- As far as the Planning Authority are aware there is no objection from the dwelling to the immediate south of the site.
- The designated view referred to in the grounds of appeal is approximately 250 metres to the north of the application site and view in question confers no restriction on the subject site. The historical antiquities referred to are a significant separation from the subject site and the proposal will in no way impact upon the historic sites.
- It has also been determined by An Bord Pleanála that appropriate assessment was not required for the development of the subject Section 5 Referral under Reg. Ref. ABP306103-19.

8.3. **Applicant's Response to the Grounds of Appeal**

8.3.1. A response to the grounds of appeal was submitted by Harley Planning Consultants. The response is outlined below:

- It is noted that the Board has determined that the excavation of rocks for the recontouring of the applicant's lands is development but exempted development. On this basis it is argued that no authorised works have taken place on the site.
- The applicant has a herd number and 25 head of cattle as well as sheep, goats and donkeys. He farms 28 acres plus commonage and wishes to expand the herd. It is stated that the applicant cannot afford to go through another winter without adequate shelter for his existing stock.
- The applicant is a full-time resident of Donegal.

- The appellants' assertion that the shed would be used for a use other than agriculture is purely speculative and without foundation.
- Dry bedding is a long established method of effluent collection and the waste is regularly used as fertiliser on lands. Condition No. 4 of the planning decision adequately addresses this issue.
- Section 5 Referrals have nothing to do with the current application and the Board have already adjudicated on the referrals in question.
- With regard to residential amenity, it is stated that the development is located in a rural area of a 1.5 kilometres from the nearest village. The nearest dwelling belongs to the applicant's cousin who is fully supportive of the development. The next nearest dwelling (owned by one of the appellants) is over 110 metres from the shed. The proposal constitutes an agricultural practice in a remote rural area.
- In terms of visual impacts, it is acknowledged that the site is located within an area designated as high scenic amenity. However, it is located along a cul-de-sac road and dug well into the adjoining hillock and therefore assimilates fully with the local landscape.
- The proposed development does not constitute a traffic hazard while there is some seasonal variation in traffic associated with the caravan park to the north, the traffic associated with the proposed development will be minimal and will be concentrated in the winter season.
- Finally, in relation to appropriate assessment issues, reference is made to the Board's decision in respect of ABP306103-19 and it concluded that qualifying interests of the adjoining SAC can be screened out from a Stage 2 Assessment. It is noted that there is a separation distance of 250 metres between the edge of the referral site and the river. The activity at the referral site would not be likely to give rise to significant releases of sedimentation or pollution which could in anyway impact on the Natura 2000 site. The separation distance and natural buffer of the wetlands/scrub would ensure that any potential impact would be attenuated within this buffer zone.

8.3.2. On this basis it is recommended that the decision of the Planning Authority be upheld, and planning permission be granted for the proposed development.

9.0 Development Plan Provision

9.1. The site is governed by the policies and provisions contained in the Donegal Development Plan 2018 – 2024. The subject site is not governed by any land use zoning designation. The site is located within an area designated as high scenic amenity and is surrounded by areas to the north and west which are designated as areas of especially high scenic amenity. There is also a designated scenic view to the north-west of the subject site towards Tullagh Point c.3 kilometres north-west of the subject site.

9.2. Policy NHP7 contained in the development plan states that within areas of high scenic amenity and moderate scenic amenity as identified in Map 7.1.1 (Scenic Amenity) and subject to other objectives and policies of this plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development integrate within and reflect the character and amenity designation of the landscape.

Policy ED-P-8 states it is a policy of the Council to consider proposals for economic development uses in the countryside including An Gaeltacht which comply with the following provisions, subject to compliance with ED-P-14 and the protection of areas designated as being of especially high scenic amenity (EHSA)”.

- Farm diversification schemes – provisions set out in Policy ED-P-9.
- Expansion of redevelopment of existing development use – provision set out in Policy ED-P-10.
- Major industrial development – provision set out in Policy ED-P-11.
- Businesses in rural areas that could benefit the local economy/tourism offering home base working – provisions set out in Policy ED-P-13.

All other proposals for economic development in the countryside will only be permitted in exceptional circumstances where the proposal comprise a development of regional or national significance and no suitable site exists within the settlement in the locality which can accommodate the proposal.

Policy ED-P-10 it is the policy of the Council to consider proposals for expansion or redevelopment of existing economic development in the countryside provide that the scale and nature of the resultant development will contribute positively to the long term sustainability of the existing enterprise subject to compliance with all provisions of Policy ED-P-14. A proposal which would not meet these criteria will only be permitted in exceptional circumstances where it can be demonstrated that:

- The proposal would provide for consolidation and/or remediation of existing facilities.
- Where relocation of the enterprise would not be possible.
- The proposal would make a significant contribution to the local economy.
- The development would maintain the existing rural character of the area.
- Where infrastructural improvements are required that a developer led solution can be identified and delivered.

Policy ED-P-14 states it is the policy of the Council that any proposals for economic development use in addition to other policy provisions in this plan would be required to meet the following criteria.

- (a) It is compatible with the surrounding land uses existing and improved.
- (b) Would not be detrimental to the character of any area designated as being of especially high scenic amenity.
- (c) Does not harm the amenities of nearby residents.
- (d) There is an 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 service 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) Does not create a noise nuisance.

- (h) Is capable of dealing satisfactorily with any emissions.
- (i) Does not adversely affect important features of the built environment or natural heritage including Natura 2000 sites.
- (j) Is not located in an area of flood risk and/or will cause or exacerbate flooding.
- (k) The site layout building design associated with infrastructure and landscaping arrangements are of high quality and assist in 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 the integration into the landscape.
- (n) It does not compromise water quality or conflict with the programme of measures contained within the current north-western basin management plan.

9.3. **Natural Heritage Designations**

At its closest point the subject site is located between 0.3 and 0.6 kilometres from the nearest Natura 2000 site the North Inishowen Coast SAC (Site Code: 002012).

10.0 **EIAR Screening**

Having regard to the nature of the proposed development which comprises of a single agricultural shed in a rural area it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

11.0 **Planning Assessment**

I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal. I consider the critical issues in determining the current application and appeal can be addressed under the headings below:

- Unauthorised Works

- Bona Fides of Proposed Agricultural Use
- Residential Amenity Concerns
- Visual Impact Concerns
- Impact on Natural Heritage
- Traffic and Access Arrangements
- Contravention of Various Policy Statements contained in the Development Plan
- Appropriate Assessment Issues

Each of these matters are evaluated in turn below.

11.1. **Unauthorised Work**

11.1.1. The grounds of appeal argue that the applicant has, in the course of excavating material from the subject site, undertaken unauthorised works for which no planning permission was sought or obtained. The Board will be aware from the planning history above, that two referral cases were lodged with it in respect of the excavation/quarrying works which have been undertaken on site. These referrals were lodged with the Board under Reg. Ref. ABP305482 and ABP306103. The referrals related to the excavation of rock and the recontouring of the applicant's land. The Board determined in the case of both referrals that the excavated rock which was used solely within the applicant's lands related to land reclamation works which comes within the scope of Article 8(c) of the Planning and Development Regulations and as such constitutes development which is exempted development. Therefore, notwithstanding what is contended in the grounds of appeal the Board reached the conclusion that the excavation works undertaken as part of the land reclamation works does not constitute unauthorised development.

11.1.2. Furthermore, whether or not unauthorised development has taken place on site is an enforcement issue and therefore is a matter for the Planning Authority and not An Bord Pleanála for the purposes of adjudicating on the current application.

11.2. Bona Fides of Proposed Agricultural Use

11.2.1. Concerns are expressed in the grounds of appeal that the applicant, according to the appellants, in addition to farming also undertakes a second hand machinery business and concerns are expressed that the intended purpose of the shed may in fact be to accommodate this commercial business as opposed to the agricultural use including the accommodation of wintering cattle. The applicant in response to the grounds of appeal indicates that he wishes to expand his herd. The applicant also argues that if he wishes to increase his stock, he cannot do so without providing adequate shelter. I would agree with the applicant in this instance that the appellants' assertion that the shed in question will be in use for other activities non-related to agriculture is somewhat speculative. No firm evidence has been provided which would suggest that the use of the shed would be for any other activity other than agriculture. It is clear from the public notices that the proposed development is for an agricultural shed and therefore any use of the shed other than that specified in the public notices would constitute an unauthorised use and could be the subject of enforcement proceedings. The Board if it considers it appropriate could also incorporate a condition specifically stating that the shed in question is to serve agricultural purposes only and shall not be used for any commercial activity. Such a condition may allay the appellants' concerns in this regard.

11.3. Residential Amenity Concerns

11.3.1. Many of the concerns relating to residential amenity are predicated on a future unauthorised use of the shed for commercial activity. As already stated above, the use for which planning permission is sought under the current application is for a shed to accommodate agricultural activity including the housing of cattle during the winter time. The provision of an agricultural shed is an appropriate and compatible use in a rural area where the prevailing land use relates to agriculture. Any noise associated with agricultural activity including the housing of cattle in the winter period is in my view entirely appropriate on the subject site. Furthermore, as the applicant points out in his response to the grounds of appeal the nearest residential dwelling is the dwelling on contiguous land to the south. This dwellinghouse is located approximately 12.5 metres from the common boundary of the site and in excess of 20 metres from the shed as proposed in the planning application. The Board will note that the owner/occupier of this dwelling has not submitted an objection in respect of

the proposed development. Other dwellings in the wider area are in excess of 80 metres from the shed as proposed therefore any residential amenity issues in relation to noise and odour etc. will be negligible.

11.3.2. Furthermore, the Planning Authority have required by way of Condition No. 2 that the shed should be relocated within the site so as to be at least 30 metres from the house on the adjoining lands to the south of the site and 80 metres from the house to the north-west of the site. The separation distances involved would in my view safeguard surrounding residential amenities.

11.4. **Visual Impact Concerns**

11.4.1. The overall footprint of the shed is relatively large at 426 square metres. However, the visual impact arising from the proposal is somewhat mitigated by the fact that the shed rises to a relatively modest ridge height of 6.63 metres and is setback 40 metres from the centreline of the public roadway in accordance with the requirements of Condition No. 2. Furthermore, the shed is set in against a vegetated bank which runs along the rear of the field. This will help further assimilate the visual impact of the shed. Any reduction of ground levels on site will also assist in reducing the impact of the shed in visual terms.

11.4.2. It is acknowledged that the subject site is located in an area of high scenic amenity and pockets of lands in the wider area surrounding the site are designated as being of "Especially High Scenic Amenity" in the development plan. Nevertheless, what is proposed in this instance can be regarded as a typical agricultural shed erected to house livestock and the size, scale and design of the structure would be reflective of many similar type agricultural structures which are located throughout the landscape. In this regard it cannot be reasonably argued that the structure in question, notwithstanding the amenity designation, can be considered as being an incongruous or discordant feature on the landscape.

11.4.3. The grounds of appeal also make reference to the designated view to the north of the appeal site. The exact nature of the view to be preserved is not described in the contents of the development plan. However, the scenic amenity map (Map 7.1.1) contained in the development plan suggests that the designated view appears to be in the general direction of Tullagh Point, a headland located to the north-west of the subject site. Furthermore, the designated view to be preserved appears to relate to

lands to the north of the subject site towards Tullagh Point. The proposed shed which is set back within the field to the south of the designated view will in my view have no material bearing or adverse impact on the designated view to be retained on the subject site. In conclusion, therefore it is considered that the proposed shed in question will not have an adverse material impact on the visual amenities of the area.

11.5. Impact on Natural Heritage

11.5.1. The grounds of appeal refer to the presence of two national monument features located within the wider area. These include a ritual site – Holy Well (Dg. 010-001) which is located approximately 700 metres from the subject site and a Graveyard (Dg. 010-002005) approximately 500 metres away. Having regard to the separation distances involved it is considered that the proposal will have no impact on the context or setting of these recorded monuments.

11.6. Traffic and Access

11.6.1. It is acknowledged that the road serving the site is a relatively narrow local third-class road. However, the road currently serves a number of dwellinghouses and also serves as access to a number of agricultural fields along its alignment. The local road serving the field in question ends in a cul-de-sac to the north. In carrying out my site inspection only one vehicle passed along the roadway during the 30 minute time period under which the site inspection took place. Having regard to the nature of the road which ends in a cul-de-sac together with the level of development along the road it is in my view reasonable to assume that the roadway would accommodate modest levels of traffic. The provision of an agricultural shed, which is more likely to be used during the winter time, and therefore outside the summer period where volumes of traffic on the subject road is likely to be heavier, will in my view have a negligible impact on the overall traffic generation along the roadway. I also consider that the local road is of sufficient width to enable agricultural vehicles to manoeuvre in an out of the agricultural entrance.

11.7. **Contravention of Various Policy Statements contained in the Development Plan**

11.7.1. The appellant argues that the development is contrary to a number of policy statements contained in the development plan but specifically ED-P-10 and ED-P-14 I have noted the contents of both these policies and have set them out in full in my report above.

11.7.2. Having inspected the plans for the proposed development and more importantly the subject site and its surroundings I would argue, and have argued above, that the proposed development would not:

- Damage the visual character of the area as the agricultural shed is located in an area characterised by agricultural activity.
- On this basis it is considered that the proposed development is fully compatible with the existing rural character of the area and the surrounding land uses.
- Would not adversely affect the amenities of nearby residents to any material extent.
- Would have a negligible impact on road infrastructure or traffic levels along the roadway in question.
- Would not impact on the natural heritage or water quality in the area (see section below).
- Provides adequate access arrangements and for the parking and manoeuvring of vehicles in and out of the site.
- Would not create an unacceptable noise nuisance.
- Would not result in the loss of aquatic habitat or biodiversity (see separate section below on appropriate assessment).

11.7.3. I would therefore conclude that the proposed development does not contravene the policies and objectives contained in the development plan referred to in the grounds of appeal and would in general be in accordance with the policies and objectives in the said plan.

11.8. Appropriate Assessment Issues

- 11.8.1. The subject site is located between 0.3 kilometres to the north-east and 0.6 kilometres to the north-west of the North Inishowen Coast SAC. While the planning application was not accompanied by an appropriate assessment screening report it was nevertheless the subject of a detailed and robust appropriate assessment screening exercise carried out by Donegal County Council. The screening report details the North Inishowen Coast SAC including the qualifying interests associated with same. The North Inishowen Coast SAC encompasses an excellent variety of coastal habitats including high rocky cliffs, off-shore island sand dunes, salt marsh as well as intertidal bay and shingle and sand beaches. The assessment of likely effects notes that there will be no loss in the habitat area and given the separation distance between the proposed shed and the boundary of the SAC in question that no significant disturbance effects are envisaged. The assessment also notes that the development would have no significant impact on water resources given that there is no direct hydrological link between the SAC and the subject site.
- 11.8.2. I further note that in the case of both referral applications these were also the subject of a Stage 1 Appropriate Assessment Screening Assessment by the Board in the determination of both referrals. The Stage 1 Screening Assessment was particularly comprehensive in respect of the potential impact arising from the works undertaken on the North Inishowen Coast SAC. The appropriate assessment assessed the potential impact arising from the works undertaken in respect of each of the qualifying interests associated with this SAC. The appropriate assessment undertaken by the inspector on behalf of the Board notes that the lands in question are connected by way of land drains to the lands to the west of the county road and ultimately to the Clonmany River which flows northwards into the SAC¹. It is noted however that there is a separation distance of 250 metres between the edge of the referral site and the river. The inspector concludes that the activity at the referral site would not be likely to give rise to significant releases of sedimentation and no pollution effects would be anticipated. The inspector's report further notes that any water flow would be impeded by the natural buffer of almost four hectares of wetland/marsh/scrub on the intervening lands between the site and the Clonmany

¹ This contradicts the conclusions set out in the Planning Authority's screening report.

River. Finally, the inspector's report notes that none of the qualifying interests associated with the SAC are located in the immediate vicinity of the river and the habitats in question would be situated at a level above the river and would therefore not be exposed to any potential impacts regarding sedimentation. It is on this basis that the inspector concludes that the Board can be satisfied that there would be no significant effect on the qualifying interests. The inspector therefore concluded that the proposed development, individually or in combination with other plans and projects would not be likely to have a significant effect on the North Inishowen Coast SAC or any other European site in the vicinity in view of the site's conservation objectives and on this basis a Stage 2 Appropriate Assessment would not be required. In issuing its determination in respect of the referrals the Board adopted the inspector's view and likewise concluded that the proposed development that the developer would not be likely to have a significant effect on the North Inishowen Coast SAC or any other European site.

11.8.3. I consider the conclusions set out in the inspector's report for both referral cases to be reasonable and comprehensive. I further note that the works undertaken as part of both referral cases which related to the excavation of rock and the reclamation of land is more likely to potentially give rise to adverse effects in terms of higher releases of sedimentation etc. than the construction of an agricultural shed. On this basis I consider that proposed development currently before the Board is even less likely to potentially give rise to adverse impacts on the integrity of the SAC in question than the works which were the subject of both referral cases. Hence I would consider it appropriate and reasonable that the Board adopt its previous conclusions in respect of both referral cases and determine that the development would not be likely to have a significant effect on the North Inishowen Coast SAC (Site Code: 002012) or any other European site.

11.8.4. Therefore, I consider it reasonable to conclude on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the North Inishowen Coast SAC or any other European site, in view of the site's conservation objectives, and a Stage 2 Appropriate Assessment (and the submission of an NIS) is therefore not required.

12.0 Conclusions and Recommendation

Arising from my assessment above I recommend that the Board uphold the decision of the plan and grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

13.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

14.0 Reasons and Considerations

Having regard to the rural character of the area it is considered that the proposed agricultural shed, subject to conditions set out below, would not seriously injure the amenities of the area, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 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.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement revised drawings indicating a revised location of the shed to be at least 30 metres from the house on the adjoining lands to the south of the site and at least 80 metres from the house to the north-west of the site and at least 40 metres from the centreline of the public road to the west of the site. The development shall be carried out in accordance with the revised plans and particulars lodged.

Reason: To protect the residential amenity of nearby dwellings.

3.
 - (a) No further breaking and excavation of rock of the hillside at the eastern end of the shed shall be permitted to take place.
 - (b) No hardstanding shall be constructed beyond 5 metres of the footprint of the shed.
 - (c) Only machinery directly involved in active farming shall be stored on the site and all redundant plant and machinery shall be removed from the site and disposed of lawfully.
 - (d) Within four months of the final grant of permission all excavated rock stockpiled on site shall be removed from the site.

Reason: In the interest of visual amenity.

4. Details of effluent storage facilities to serve the structure shall be agreed with the planning authority prior to the commencement of development.

Reason: In the interest of public health.

5. Any rainwater harvesting tank to be provided on site shall be located to the rear of the shed and shall be adequately covered.

Reason: In the interests of public health

6. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-
- (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
 - (b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of environmental protection and public health.

7. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed discharge to foul effluent drains, foul effluent and slurry storage tanks or the public road.

Reason: In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

8. Slurry generated by the proposed development shall be disposed of by spreading on land or by other means acceptable in writing to the planning authority. The location rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2017 (as amended).

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and the prevention of pollution of water courses.

9. Prior to the commencement of development, permanent visibility splays of 60 metres shall be provided in a northerly direction and 50 metres shall be provided in a southerly direction to the nearside road edge at a point 2.4 metres back from the road edge at the location of the vehicular entrance. Details of the visibility splays shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety.

10. Details of all roadside drainage shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of public health

11. Details of all external finishes to the shed shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenities of the area.

12. All service cables associated with the proposed development including electrical cables shall be located underground.

Reason: In the interest of visual amenity.

13. The developer shall pay to the planning authority a financial contribution of €606 (six hundred and six euros) 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. The application of any indexation required by this condition 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.

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.

Paul Caprani,
Senior Planning Inspector.

19th October, 2020.