



An
Bord
Pleanála

Inspector's Report ABP-316069-23

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| Development | 2 commercial buildings and new shared entrance. |
| Location | Killyclug, Letterkenny, Co. Donegal |
| Planning Authority | Donegal County Council |
| Planning Authority Reg. Ref. | 2251785 |
| Applicant(s) | Cillanior Developments Limited |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse Permission. |
| Type of Appeal | First Party |
| Appellant(s) | Cillanoir Developments Limited |
| Observer(s) | None. |
| Date of Site Inspection | 11 th of October 2023. |
| Inspector | Stephanie Farrington |

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 1.19ha, is located in the townland of Killyclug to the northwest of Letterkenny town centre. The site is primarily greenfield and overgrown. ESB power lines traverse the site. The L-1512-6 forms the western boundary of the site.
- 1.2. The Cill an Oir Applegreen Filling Station and Ard Ri public house is located to the south of the site. The site is adjoining by existing undeveloped lands to the north which is subject to an application for development of 5 no. commercial units (ABP Ref: 316070-23, PA Ref: 22/50608). The site is adjoined by undeveloped lands to the east.

2.0 Proposed Development

- 2.1. The proposed development comprises of the development of 2 no. commercial buildings and all associated site works. Unit 1 has a gross floor area of 959 sq.m. and a maximum height of 6.9m. Unit 2 has a gross floor area of 523 sq.m. and a maximum height of 5.79m.
- 2.2. The Site Layout Plan (Drawing no. PL101) illustrates that the proposed commercial units are located along the southern and northwestern site boundaries. The Plan illustrates 3 no. additional commercial units within the site ranging in size from 838 sq.m. to 921 sq.m. which are indicated as “Future Units” on the Plan.
- 2.3. Access to the site is proposed via the L1512-6 to the west. The public notices outline that the development includes the construction of a new shared entrance with the adjacent commercial development proposed under PA Ref: 22/50608. The Site Layout Plan illustrates that the internal road network provides a connection to the adjoining site to the north which is subject to a concurrent appeal for commercial development (PA Ref: 22/50608, ABP Ref: 316070-23). The development includes the provision of 44 no. parking spaces.
- 2.4. The planning application is accompanied by the following documentation:
 - Application Cover Letter
 - Application Drawings

- Public Notices and Application Form
- Completed Traffic and Transport Assessment Form
- Letter of Consent
- Certification of Corporation for applicant

2.5. The following documentation was submitted in response to Donegal County Council's request for further information:

- Further Information Response Cover Letter
- Drainage Summary Report
- Revised Site Layout Drawing and Revised Plans, Elevation and Section Drawing
- Storm Drainage Layout

2.6. The applicant's response to Donegal County Council's request for further information confirms the following schedule of uses for the proposed commercial units:

- Offices and professional services.
- Offices and financial/professional and other services principally to serve visiting members of the public.
- Light Industrial.
- Warehousing.

3.0 Planning Authority Decision

3.1. Decision

Donegal County Council issued a notification of decision to refused permission for the development in accordance with the following reasons and considerations:

"It is considered that the application is premature in light of the public consultation status of the "Draft Letterkenny Plan and Local Transport Plan 2023-2029" and in particular the proposed zoning for the application site (Local Environment), which is materially different to the current zoning (Commercial) as defined in the Letterkenny

Land Use Zoning Map 12.1B of the County Donegal Development Plan 2018-2024 (as varied). Therefore, it is considered that to permit the proposed development would be prejudicial to the statutory local area plan-making process, the public consultation process of which is currently ongoing”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner’s Report (6/12/2022)

The initial planner’s report recommends a request for further information. The following provides a summary of the key points raised:

- The report refers to the Commercial zoning objective pertaining to the site as set out within the County Donegal Development Plan 2018-2024 (as varied). The principle of a commercial development on the site was deemed acceptable.
- In terms of the design of units, the planner’s report outlines that the design approach is welcome and resembles a retail park. The report raises concern in relation to a retail park use and clarification is recommended in relation to the proposed uses.
- The report refers to the distance of the proposal from the nearest residential property and outlines that no issues arise in relation to loss of privacy, overlooking or residential amenity.
- The report raises concern in relation to the layout and configuration of delivery bays and maneuvering space on site. Further information is recommended.
- The report recommends further information in relation to proposals for SUDS on site.
- The Planning Authority’s Appropriate Assessment concludes the following:
“Having regard to the scale and nature of the proposed development on an existing serviced in-settlement site, alongside the physical distances from the nearest Natura 2000 site (4.5km), it is not considered that the proposed development would be likely to have any significant effect, individually or in

combination with any other plan or project, however, I am conscious of the presence of the existing stream at the rear of the site, this matter shall be assessed further on receipt of further information in relation to the drainage SUDS strategy. AA shall not be concluded until further drainage strategy is submitted”.

- The report outlines the following in respect of Environmental Impact Assessment:

“Having regard to the limited scale of the proposed development and location of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact can, therefore, be excluded at preliminary examination and a screening determination is not required”.

- The report recommends a request for further information in relation to the following: (1) Submission of a schedule of proposed uses for the commercial units (2) amended car parking layout which facilitates parking and manoeuvring of delivery vehicles (3) revised plans which incorporate a SUDs Strategy for the site.

Planner's Report (14/02/2023)

The report recommends a refusal of permission in accordance with the planning authority's decision. The following provides a summary of the key points raised.

- The report presents a summary of the applicant's FI response.
- The report refers to the changing policy context pertaining to the site in light of the publication of the Draft Letterkenny and Local Transport Plan 2023-2029 on the 6th of January 2023.
- The planner's report refers to the zoning of the site for Local Environment purposes within the Draft Plan and outlines that the determination of the application is premature on this basis.
- The planner's report outlines that it is not reasonable to conclude the assessment of the application on the basis of the matters raised within the earlier assessment in relation to uses, parking and drainage.

- The report recommends a refusal of permission.

3.2.2. Other Technical Reports

Building Control (08/11/2022)

No objections subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

The following planning history relates to the appeal site.

PA Ref: 07/50766

Permission granted by DCC in October 2007 for a 2 storey mixed use building on the site comprising a shop, health centre, office and childcare facility.

PA Ref: 22/50854

Application withdrawn in July 2022 for construction of commercial unit of 800 sq.m. on site.

Adjoining Site to the North

PA Ref: 06/50354

Permission refused by DCC in May 2006 for the construction of a steel fabrication facility and associated works. The reasons for refusal outlined that the development would (1) be contrary to the residential zoning objective pertaining to the site and provisions of the Letterkenny and Environs Development Plan 2003-2009 and (2) the development would be injurious to the residential amenity of the area.

PA Ref: 22/50608, ABP Reference 316070-23

Application refused by DCC in February 2023 for the construction of 5 no. commercial units and associated site works on the site. The reason for refusal reflects that set out within the subject appeal. A first party appeal was submitted under ABP Reference 316070-23.

5.0 Policy Context

5.1. Development Plan

Letterkenny Plan and Local Transport Plan 2023-2029

- 5.1.1. The Letterkenny Plan and Local Transport Plan 2023-2029 was adopted by Donegal County Council on the 13th of November 2023 and came into effect on the 3rd of January 2024. Donegal County Council's website outlines that *"the Plan has effect from 3rd January 2024 for a period of 6 years until 2029, save for those items referenced in the 'Draft Ministerial Direction'"*. I note that the Draft Direction relates to 6 parcels of land within Letterkenny. The appeal site is not one of the identified sites.
- 5.1.2. The following provides a summary of the policies and objectives of the Plan as they relate to the appeal site.

Statutory Context

- 5.1.3. The Plan outlines that the Letterkenny Plan 2023-2029 replaces Chapter 12, Part C of the CDP, which contains the detailed planning policy framework for the town of Letterkenny. The LAP outlines that it is intended that Chapter 12 of the CDP will be deleted by way of a Variation to the CDP.
- 5.1.4. The Plan outlines that the Letterkenny Plan must be read in tandem with the CDP, as general policies and standards contained within the CDP are also applicable within the Letterkenny Plan area.

Chapter 7: General Development Management Approach and Detailed Policies

- 5.1.5. The following policies are of relevance to the proposal:
- Policy LK-DM-P-1: It is a policy of the Council to support the principle of development proposals that are: (a) Generally consistent with the zoning

objectives as set out in Table 7.1 below and the corresponding zones identified on Map 7.1 entitled 'Land Use Zoning Map'; and (b) Supported in the zoning matrix contained in Table 7.2 below. Such proposals will also be considered against the wider policy framework contained in both this Plan and the CDP where relevant, and relevant guidelines.

- Policy LK-DM-P-2: In assessing development proposals within Letterkenny, the Council will implement all relevant policy provisions of the operative County Development Plan in addition to the policy framework of the Letterkenny Plan.

Zoning Objectives

5.1.6. Table 7.1 relates to Land Use Zoning Objectives. The appeal site is primarily zoned for General Employment purposes within the zoning map set out within the Plan. This zoning objective seeks: *"To reserve land for commercial, industrial and non-retail purposes and car sales"*.

5.1.7. A portion of the site is zoned for Established Development purposes with an objective "To conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement, including new residential development, subject to all relevant material planning considerations, all the policies of this Plan, relevant national/regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area".

5.1.8. Table 7.2 sets out the land use zoning matrix. The following uses are listed as Acceptable in Principle and Open for Consideration on lands zoned for General Employment and Commercial purposes.

- Acceptable in Principle – Offices*10
- Open for Consideration – Café, Community/ Recreation/Sports, Creche/Playschool, Data Centre, Funeral Home, Garage/Car Repair, Industry (Light), Industry (General) *9, Medical Consultancy/Healthcare, Motor Sales, Petrol Station*11, Place of Worship, Restaurant, Retail *17, Solar Energy Development, Warehouse/Store/Depot.
- Relevant Footnotes –

- 9 Developers are advised to have regard to, inter alia, the economic development policies of the County Development Plan 2018-2024, in particular Policy ED-P-14.
- 10 Developers are advised to note that professional services, where the services proposed are provided principally to visiting members of the public, will be directed to the defined town centre or to established neighbourhood centres, in accordance with the provisions of Policy LKED-P-3 of this Plan.
- 17 Proposals for retail development on lands zoned as General Employment shall only be considered where the retail element of the proposal is clearly ancillary to the parent/main use of the site, comprises a maximum of 10% of the total floor area of the subject development, and where the goods being sold are a product of that 'main use'. Notwithstanding the foregoing, proposals for retail uses on General Employment lands shall not be permitted if such use would be detrimental to the retail function of the town centre; these matters will be assessed on a case-by-case basis in accordance with the provisions of the Council's Retail Strategy.

Other Mapped Objectives

- 5.1.9. The L-1512-6 which runs to the west of the site is designated as a Strategic Road Corridor within the zoning map.

Chapter 8 Economic Development and Employment.

- 5.1.10. Section 8.5 sets out Economic Development and Employment Objectives and Policies.
- Objective LK-ED-O-1: To build and strengthen Letterkenny as a key centre for economic growth across the sectors and as a university town, commensurate with its Regional Centre status as provided for in the National Planning Framework.
 - Policy LK-EDE-P-2: It is a policy of the Council to only support the provision of professional services, where the services proposed are provided principally to visiting members of the public, within the defined town centre or within established neighbourhood centres.

Part B - Local Transport Plan

5.1.11. Part B of the LAP sets out a Local Transport Plan for Letterkenny. The L-1512-6 which runs to the west of the appeal site is identified as a Strategic Road Corridor within the zoning map for Letterkenny. Chapter 22 sets out the Strategic Roads Strategy. Map 22.4 identifies the road as part of the Western Relief Road for the town (Strategic Future Road Scheme).

5.1.12. Section 22.5 of the LAP relates to Additional Strategic Road Schemes and outlines the following:

Successive Donegal Council's have given policy support to the development of a Northern Network Project (previously referred to as the 'Northern Relief Road') and a Western Network Project (previously referred to as the 'Western Relief Road') to address challenges on the northern and western sides of the town. Support for these projects is also contained in the RSES. The proposals are retained, therefore, in this Plan inclusive of the identification of indicative routes on the Land Use Zoning Map and active travel maps, and their inclusion in relevant policies below, given the huge potential they offer for the provision of multi-modal travel providing further connectivity to the existing network modes. Whilst the Western network project is unlikely to be realized in the long term, the horizon for the development of the Northern Network Project is anticipated in the short to medium term in tandem with anticipated private development in the area.

5.1.13. The following Strategic Roads Objective and Policies are of relevance:

- *LTP-T- O-2: To develop the Strategic Roads programme for Letterkenny.*
- *LTP-T-P-5: It is a policy of the council to: a. Support and facilitate the appropriate development, extension and improvement of Letterkenny's transport network, including the strategic roads projects identified in Table 22.2 below; b. Not to permit development that would prejudice the implementation of a strategic roads project identified in Table 22.2. c. Protect the corridors and routes and acquire the lands necessary for new roads and road improvement projects as identified in Table 22.2 below.*
- *LTP-T-P-6: It is a policy of the council to: a. Address the inadequate strategic road network serving the town of Letterkenny so as to alleviate current congestion to and from and within the town. b. Provide for and support the removal of non-strategic traffic from the town through support for the provision*

of strategic roads infrastructure projects. c. Manage future traffic interventions to ensure reprioritizing from the private car to sustainable modes so as to create a safer and more comfortable environment for pedestrians cyclists and public transport. d. Protect the corridors and routes and acquire the lands necessary for new roads and road improvement projects as identified in Table 22.2.

5.1.14. Table 22.2 of the LAP identifies the following Strategic Roads Projects

- TEN-T Priority Route Improvement Project (Section 2)
- Southern Network Project
- Northern Network Project
- Western Network Project
- Urban Road Improvement Project

County Donegal Development Plan 2018-2024 (as varied)

Variation no. 3 of County Donegal Development Plan 2018-2024

5.1.15. Variation no. 3 of the County Donegal Development Plan was adopted by Donegal County Council on the 29th of January 2024. The purpose of the variation was to delete the Letterkenny specific content set out within Part C the County Development Plan. The following provides a summary of the provision of the County Development Plan as updated by Variation no. 3.

Chapter 2 Core Strategy

5.1.16. Chapter 2 of the Development Plan sets out the Core Strategy for Co. Donegal. Letterkenny is designated as a Layer 1 town. The Plan outlines that as the largest town, it provides a broad range of services across the sectors including employment, education, health, cultural services, community services, entertainment and many more.

Chapter 4 Economic Development

5.1.17. Section 4.1.3 relates to the Economic Development Strategy. The Plan outlines that the linked metropolitan area of Letterkenny and the City of Derry-Londonderry is of National, Regional, Local and Cross Border importance. This area is the major driver

of economic development in the County in conjunction with the Layer 2A Strategic Support Towns and those Layer 2 towns and villages with special functions throughout the County.

5.1.18. The following policies and objectives are of relevance:

- ED-O-3: To facilitate and direct appropriate employment generating developments into the Gateway centre of Letterkenny and the Strategic Support Towns, and to support the economic development of smaller towns and villages throughout the county.
- ED-P-2: It is a policy of the Council that any economic development proposal that meets the locational policies set out hereunder (Policies ED-P-3 – ED-P-13) must also comply with the criteria set out in Policy ED-P-14 and be consistent with the proper planning and sustainable development of the area.
- ED-P-4: Within designated Settlement Framework areas it is a policy of the Council to consider economic development proposals involving a light industrial building (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.
 - (a) On land zoned for such use in this Plan or future Local Area Plans or on an existing industrial/employment area, provided the proposal is of a scale, nature and form appropriate to the location.
 - (b) Elsewhere within settlement framework areas, proposals for light industrial use will be determined on their individual merits having regard to the scale and character of the settlement, environmental considerations, the availability of necessary infrastructure, compliance with policy ED-P-14, and compatibility with the locality.
 - (c) Development involving light industrial buildings will not be permitted outside of settlements in the open countryside 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.
- 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.

- ED-P-6: Within designated Settlement Framework areas it is a policy of the Council to consider development proposals for Office use (Class 3), use as a call centre, or for research and development purposes: (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.
- 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, maneuvering 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 (nwrbd) management plan.

Chapter 5 Infrastructure

5.1.19. This chapter outlines that regional and county roads play a significant role in providing permeability and access to all areas of the County.

5.1.20. Table 5.1B of the Plan refers to Proposed Transportation Improvement Projects within the County. The following routes are identified under the heading of Letterkenny Strategic Network: Northern Network Project, Western Network Project and Southern Network Project.

5.1.21. The following policies and objectives are of relevance:

- T-O-7: To protect the corridors and routes and acquire the lands necessary for transportation improvement projects as identified in Table 5.1B above.
- T-P-13: It is a policy of the Council to require development proposals to provide adequate provision for car parking and associated servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the standards set out in Appendix 3 Development and Technical Standards. A reduced number of car parking spaces may be acceptable in the following circumstances:
 - Where, through a Traffic and Transport Assessment (TTA) it forms part of a package of measures to promote alternative transport modes; or
 - Where the development is in a highly accessible location well served by public transport; or

- Where the development would benefit from spare capacity available in nearby public car parks, car parks habitually open to public use or on on-street car parking; or
- Where it is clear to the Planning Authority that one of the uses is daytime use and the other is evening use; or
- Where it can be established that members of public visit the site by pre-arranged coach/bus; or
- Where the exercise of flexibility would assist in the conservation of the built or natural heritage, would aid the renewal of areas in need of regeneration, would facilitate a better quality of development or the beneficial reuse of an existing building.

In assessing car parking provisions, the Council will require that:

- (a) A proportion of the spaces to be provided are reserved for people with disabilities in accordance with best practice; and
- (b) A proportion of the spaces to be provided are allocated as charging points for electric vehicles in accordance with best practice.

Where a reduced level of parking provision is accepted, this will not normally apply to the number of reserved spaces to be provided.

- T-P-15: It is a policy of the Council to require that all development proposals comply with the Development and Technical Standards set out in Appendix 3 to promote road safety.

Chapter 7 Natural and Built Heritage

- 5.1.22. The site is located within an area designated as High Scenic Amenity within Map 7.1.1 of the Development Plan. The Plan outlines the following in respect of areas designated as High Scenic Amenity:

Areas of High Scenic Amenity (HSA) - Areas of High Scenic Amenity are landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and

which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.

5.1.23. Policy NG-P-7 is of relevance:

- Policy NG-P-7: *Within areas of 'High Scenic Amenity' (HSC) and 'Moderate Scenic Amenity' (MSC) as identified on Map 7.1.1: 'Scenic Amenity', and subject to the 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 to integrate within and reflect the character and amenity designation of the landscape.*

Appendix 3 – Development Guidelines and Technical Standards

5.1.24. Section 2.1 relates to Requirement for Traffic and Transport Statement. This outlines that certain development proposals will generate significant trips either by car, commercial vehicle, cycling, walking or public transport, with potentially serious implications for the local road network, this could in some circumstances necessitate changes to the road/junction layout and capacity in order to address road safety concerns and maintain a satisfactory level of service for road users. In these circumstances a traffic and transport assessment (TTA) may be required to fully address the implications arising and assist the evaluation of the planning application. Planning applications requiring an access on to a public road and generating significant additional traffic must be accompanied by a completed Transport and Traffic Statement, i.e. TTS 1 and a TTS 2.

5.1.25. Building Setback on Non-National Roads - A minimum of 25m setback will be required from centreline of carriageway on Regional Roads and 15m setback will be required from centreline of carriageway on Local Roads. Where existing buildings have formed an established building line, new buildings may follow the established building line, and the proposed set back may not be required.

5.1.26. Table 6- Appendix 3 sets out Car Parking Standards. The following are of relevance:

Light Industrial and Warehousing

- Car Parking - Assessed on individual merits having regard to the number of workers, operating patterns, location and proximity to public transport but with a minimum of 1 per 2 employees.

Offices

- 1 per 30 sq.m.

County Donegal Development Plan 2024-2030

5.1.27. The Draft County Donegal Development Plan 2024-2030 process is nearing completion (CE Report on Material Amendments being prepared at the time of writing and A Special Council Meeting had been Scheduled for the 16th of May 2024 to allow the Elected Members to consider said report). The CDDP 2018-2024 is currently the operative Development Plan for the area.

5.2. Natural Heritage Designations

5.2.1. The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:

- River Swilly Valley Woods pNHA – 2.4 km
- Leannan River SAC – 4.2km
- Lough Swilly SPA – 4.9km
- Lough Swilly SAC – 4.9km
- Lough Fern SPA -8.6km
- Lough Swilly Including Big Isle, Blanket Nook & Inch Lake pNHA – 4.2km
- Leannan Valley Woods pNHA– 5.3km
- Ballyarr Wood SAC – 6.9km
- Lough Akibbon And Gartan Lough p NHA – 9.8km
- Derryveagh And Glendowan Mountains SPA – 9.8km
- Cloghernagore Bog and Glenveagh National Park SAC – 11.2km
- Tullytresna Bog p NHA- 13.1km
- River Finn SAC – 13.1km

5.3. EIA Screening

5.3.1. This proposed development, is of a class of development included in Schedule 5 to the Regulations. Class 10 of Schedule 5 to Part 2 of the Regulations provides that mandatory EIA is required for the following classes of development:

(a) Industrial estate development projects, where the area would exceed 15 hectares

(b) (iv) urban development, which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.*

**a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.*

- 5.3.2. The proposed development comprises the construction of 2 no. commercial units and associated site works on a 1.19ha site. I note the concurrent appeal on the site to the north for 5 no. commercial units which includes shared access arrangements with the appeal site (ABP Ref: 316070-23). The cumulative site area is 3.34 ha. The site area falls below the mandatory threshold and a mandatory EIA is therefore not required.
- 5.3.3. Regarding sub-threshold EIA, I note that the site is a primarily greenfield site located within the built-up urban area of Letterkenny. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development would not give rise to significant or hazardous waste, pollution or nuisances and would not give rise to a risk of major accidents or risks to human health. Wastewater and surface water would both drain to the public network, upon which their effect would be marginal. I refer to Section 8 of this report which addresses Appropriate Assessment.
- 5.3.4. Having regard to: -
- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
 - The location of the site within a built-up area, served by public infrastructure, on lands that are zoned for "General Employment" purposes within the Letterkenny Plan and Local Transport Plan 2023-2029, and the results of the strategic environmental assessment of the Strategic Environmental Assessment of the LAP, undertaken in accordance with the SEA Directive (2001/42/EC),

- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.3.5. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development is not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal was submitted in respect of the notification of decision of Donegal County Council to refuse permission for the development. The following provides a summary of the grounds of appeal:

- The appeal outlines that the site is currently zoned for Commercial purposes as identified within Map 12.1B of the Letterkenny Land Use Zoning Map as set out within the County Donegal Development Plan 2018-2024. The site is zoned for “Local Environment” purposes within the Draft Letterkenny Plan and Local Transport Plan 2023-2029.
- The appeal refers to the planning history pertaining to the site and the mixed-use development permitted under PA Ref 07/50766. It is stated that works were carried out on foot of this permission including site clearance works. The development was not implemented due to the economic recession. The

appeal outlines that the portion of the site where site clearance was undertaken was effectively brownfield rather than “Local Environment” as proposed within the Draft Letterkenny Plan and Local Transport Plan 2023-2029.

- The appeal refers to Donegal County Council’s planner’s report dated December 2022 and the request for further information issued by the planning authority.
- The appeal refers to the planning officer’s report prepared in respect of the applicants FI response. It is stated that the report that the planning authority did not assess the further information submitted and relied solely on the Draft Letterkenny Plan as a basis for the reasons for refusal. The legitimacy of the reason for refusal is called into question within the appeal.
- Section 9 of the appeal relates to the Draft Letterkenny Plan and Local Transport Plan and the relevant legislation set out within Section 18(3)(a) of the Planning and Development Act and the Draft Planning and Development Bill 2023.
- Section 9.2 of the appeal refers to the comments and recommendations set out within the submission of the Office of the Public Regulator in respect of the Draft Letterkenny Plan and Local Transport Plan 2023-2029 which relate to the requirement for a variation to the County Donegal Development Plan before the Letterkenny Plan can be adopted.
- Section 10 of the appeal refers to the contrary approach in the implementation of the Draft Plan adopted by Donegal County Council in issuing a decision to grant permission for a 90-unit residential development in March 2023 on lands zoned for Strategic Residential Reserve within the Draft Letterkenny Plan and for Residential purposes within the County Donegal Development Plan (PA Ref: 22/51204). The appeal asserts that the same principles adopted in this decision should apply to the appeal site.
- The appeal asserts that the decision of DCC to refuse permission for the development on the basis of the zoning of the site set out within the Draft

Letterkenny Plan rather than that set out within the operative County Donegal Development Plan 2018-2024 is an incorrect and legally doubtful decision.

- The Board is requested to overturn the decision of Donegal County Council and issue a decision to grant permission for the development in accordance with the provisions of the County Donegal Development Plan 2018-2024 (as varied).

6.2. Planning Authority Response

- 6.2.1. Donegal County Council provided a response to the grounds of appeal. The response cross refers to the planner's report dated the 6th of December 2022 and the 14th of February 2023 which informed the decision of the Planning Authority. The response outlines that the planning authority has no further comments to make.

7.0 Assessment

- 7.1. This is a first party appeal against the decision of Donegal County Council to refuse permission for 2 no. commercial units on site and associated site development works on grounds of prematurity pending the adoption of the Letterkenny Plan and Local Transport Plan 2023-2029 and the proposed zoning of the site for "Local Environment" purposes.
- 7.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:
- Principle of Development/ Compliance with Policy
 - Access, Layout and Traffic Impact
- 7.3. **Principle of Development/ Compliance with Policy**
- 7.3.1. Donegal County Council's reason for refusal relates to prematurity of the development in light of the public consultation status of the Draft Letterkenny Plan and Local Transport Plan 2023-2029 and in particular the proposed zoning for the application site for "Local Environment" purposes within the Draft Plan. The first party

appeal outlines that the decision of DCC to refuse permission for the development on the basis of the zoning of the site set out within the Draft Letterkenny Plan rather than that set out within the operative County Donegal Development Plan 2018-2024 is an incorrect and legally doubtful decision and inconsistent with the approach adopted by the planning authority in other decisions in the area.

- 7.3.2. At the time of the assessment of the application, the County Donegal Development Plan 2018-2024 (as varied) was the operative development plan for the area. The application was initially assessed by Donegal County Council (DCC) in accordance with the policies and objectives of this plan. A request for further information was issued by DCC in respect of parking layout, schedule of proposed uses and SUDS measures.
- 7.3.3. The Draft Letterkenny Plan and Local Transport Plan 2023-2029 was published by DCC on the 6th of January 2023 for a consultation period of 6 weeks. Donegal County Council's notification of decision to refuse permission for the development referred to the provisions of this plan and in particular the "Local Environment" zoning objective pertaining to the site.
- 7.3.4. In the intervening period between the Council's decision and the consideration of the appeal, I note that Letterkenny Plan and Local Transport Plan 2023-2029 was adopted on the 13th of November 2023 and came into effect on the 3rd of January 2024. Variation no. 3 of the County Donegal Development Plan 2018-2024 (as varied) was adopted by DCC on the 29th of January 2024. In terms of Statutory Context, the LAP outlines that the Letterkenny Plan 2023-2029 replaces Chapter 12, Part C of the CDP, which contains the detailed planning policy framework for the town of Letterkenny. The Plan outlines that it must be read in tandem with the CDP, as general policies and standards contained within the CDP are also applicable within the Letterkenny Plan area.
- 7.3.5. I have assessed the proposal in accordance with the provisions of the operative development plan namely the County Donegal Development Plan 2018-2024 (as varied) and the Letterkenny Plan and Local Transport Plan 2023-2029.

Zoning

- 7.3.6. The proposed development seeks the construction of 2 no. commercial units on site and associated site development works. The applicant's response to Donegal

County Council's request for further information provided a schedule of proposed future uses for the units as follows:

- Offices and professional services;
- Offices and financial/professional and other services principally to serve visiting members of the public;
- Light Industrial;
- Warehousing;

7.3.7. The appeal site is primarily zoned for General Employment and Commercial purposes within the zoning map set out within the Letterkenny Plan and Local Transport Plan 2023-2029. This zoning objective seeks: *"To reserve land for commercial, industrial and non-retail purposes and car sales"*.

7.3.8. A portion of the site is zoned for Established Development purposes with an objective *"To conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement, including new residential development, subject to all relevant material planning considerations, all the policies of this Plan, relevant national/regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area"*. No development is indicated in this area within the subject application.

7.3.9. Office is listed as a use which is "acceptable in principle" on lands zoned for General Employment and Commercial purposes. Footnote 10 is of relevance which outlines that: *"10 Developers are advised to note that professional services, where the services proposed are provided principally to visiting members of the public, will be directed to the defined town centre or to established neighbourhood centres, in accordance with the provisions of Policy LK-EDE-P-3 of this Plan"*.

7.3.10. I note the reference in footnote 10 to Policy LK-EDE-P-3 of the LAP. However, I note that there is no policy of EDE-P-3 in the final adopted LAP. I consider that the correct reference is Policy LK-EDE-P-2 which outlines that *"It is a policy of the Council to only support the provision of professional services, where the services proposed are provided principally to visiting members of the public, within the defined town centre or within established neighbourhood centres"*.

- 7.3.11. Light industrial and Warehouse uses are listed as a use which are “open for consideration”.
- 7.3.12. I consider that the principle of an office/light industrial and warehouse use can be considered on lands zoned for General Employment and Commercial purposes in the Letterkenny Plan and Local Transport Plan subject to compliance with other relevant provisions of the Letterkenny Plan and Local Transport Plan 2023-2029 and the County Donegal Development Plan 2019-2024 (as varied). I consider that there is a requirement to restrict the proposed nature of office use in accordance with Policy LK-EDE-P-2 of the Letterkenny Plan.
- 7.3.13. The policies and objectives of the County Donegal Development Plan and the Letterkenny Plan and Local Transport Plan support employment uses on appropriately zoned land within the settlement framework of Letterkenny as a designated gateway centre and Level 1 centre within settlement within the Donegal County Settlement Hierarchy (Objective LK-ED-O-1 of the Letterkenny Plan and Objective ED-O-3 of the DCDP (as varied)). I consider that the principle of the development meets the locational policies as set out within the ED-P-3 to ED-13 of the County Donegal Development Plan.
- 7.3.14. Having regard to the current policy context pertaining to the site I do not recommend a refusal of permission for the development on the basis of prematurity pending the publication of the Draft Letterkenny Plan and Local Transport Plan 2023-2029 and non-compliance with the zoning objective for the site set out therein.
- 7.3.15. However, I do consider that there are other provisions of the County Donegal Development Plan and the Letterkenny Plan and Local Transport Plan which I am not satisfied that the development is in compliance with as detailed in the following sections of this assessment.

Road Objectives

- 7.3.16. Access to the site is proposed via the creation of a new entrance from the L-1512-6. The L-1512-6 is identified as a Strategic Road Corridor within the zoning map for Letterkenny as set out within the Letterkenny Plan and Local Transport Plan. Map 22.4 identifies the road as part of the Western Relief Road for the town (Strategic Future Road Scheme). The Western Network Project is identified as a Strategic Roads Project within Table 22.2 of the LAP.

7.3.17. Policy LTP-T-P-5 is of relevance as detailed below:

- LTP-T-P-5: It is a policy of the council to: a. Support and facilitate the appropriate development, extension and improvement of Letterkenny's transport network, including the strategic roads projects identified in Table 22.2 below; b. Not to permit development that would prejudice the implementation of a strategic roads project identified in Table 22.2. c. Protect the corridors and routes and acquire the lands necessary for new roads and road improvement projects as identified in Table 22.2 below.

7.3.18. The L1512-6 is identified as a Proposed Transportation Improvement Project within Table 5.1B County Donegal Development Plan 2018-2024 (as varied). Objective T-O-7 of the County Donegal Development Plan seeks: *To protect the corridors and routes and acquire the lands necessary for transportation improvement projects as identified in Table 5.1B above.*

7.3.19. There is no reference within the application to the designation of the L-1512-6 as a Strategic Road Corridor. The L1512-6 is narrow in width along the appeal site boundary and has no footpath and public lighting. I am not clear if any reservations are required to accommodate the Strategic Road Corridor. On the basis of the information submitted with the application and appeal I am not satisfied that the development is in compliance with Objective T-O-7 of the County Donegal Development Plan 2018-2024 (as varied) and policy LTP-T-P-5 of the Letterkenny Plan and Local Transport Plan 2023-2029. I recommend that permission is refused for the development on this basis.

Criteria under Policy ED-P-14

7.3.20. I consider that there are significant information deficiencies within the submitted application in respect of the specific nature of the proposed development. Donegal County Council's request for further information requested the applicant to provide a schedule of proposed uses of the development. The applicant's FI response provides a range of uses for the units including office/light industry and warehousing. While all such uses can be considered under the site's zoning objective (subject to restriction on the nature of the office use in accordance with Policy EDE-P-2 of the LAP) I consider that the wide range of uses detailed in the FI response is not specific enough to enable a full assessment of the impact of the proposed development. I

consider that each of the uses identified within the FI response would have different layout, transportation requirements and traffic impacts.

7.3.21. I refer to the requirements of Policies ED-P-2 and ED-P-14 of the County Donegal Development Plan 2018-2024 (as varied) which outlines the following:

- ED-P-2: It is a policy of the Council that any economic development proposal that meets the locational policies set out hereunder (Policies ED-P-3 – ED-P-13) must also comply with the criteria set out in Policy ED-P-14 and be consistent with the proper planning and sustainable development of the area.

7.3.22. Policy ED-P-14 of the Plan sets out a range of criteria that proposals for economic development use, will be required to meet. The identified criteria include the following;

- *(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, maneuvering 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.*

7.3.23. I consider that insufficient documentation has been submitted in conjunction with the application to demonstrate compliance with the criteria set out within Policy ED-P-14 of the DCDP. In particular, I consider that there are significant information deficiencies in relation to potential traffic impact associated with the proposal and compliance with the technical standards relating to parking, access and servicing set out within Appendix 3 of the DCDP as required under criteria (e) and (f) as discussed further in the following section of this report.

7.4. Access, Layout and Traffic Impact

Access

7.4.1. Access to the site is proposed via the creation of a new access road located to the north of the site from the L1512-6 to the west. The application boundary extends to include this access road which is located on lands outside of the ownership of the applicant. A letter of consent from the adjoining landowner has been submitted in support of the application. The proposed access road serves the appeal site and the

site to the north which is subject to a concurrent appeal for 5 no. commercial units (PA Ref: 2250608, ABP Ref: 316070-23).

Layout

- 7.4.2. I consider that the internal layout as proposed is dominated by the service road and the requirement for same has not been justified within the application in terms of the identification of a specific use. As earlier noted, I consider that there are materially different layout considerations which would relate to an office use compared to a light industrial or warehousing use. The overall function of this road and tie in with adjacent landholdings is un-defined within the application. I consider that the road layout in the vicinity of proposed Unit 1 and parking units 20-27 would result in traffic safety issues.
- 7.4.3. Pedestrian connections to and within the site are limited particularly given the high level of pedestrians envisaged to access the site (200). I consider that the parking layout is haphazard, I am not satisfied that all spaces are accessible and I have concern in relation to the siting of proposed spaces 20 to 27. In the absence of a clearly defined use for the proposal I consider that it is difficult to ascertain parking requirements.
- 7.4.4. I refer to the requirements of Policy T-P-13 of the County Donegal Development Plan 2018-2024 (as varied) which outlines that development proposals should provide adequate provision for car parking and associated servicing arrangements and the precise amount of car parking will be determined according to the specific characteristics of the development. I refer to the car parking standards set out within Table 6- Appendix 3 of the Donegal County Development Plan.
- *Light Industrial and Warehousing:* Car Parking - Assessed on individual merits having regard to the number of workers, operating patterns, location and proximity to public transport but with a minimum of 1 per 2 employees.
 - Office - 1 per 30 sq.m.
- 7.4.5. The proposed layout indicates the provision of 27 no. car parking spaces to serve Unit 1 and 19 no. spaces to serve Unit 2 (Drawing no. 2422/F1101) no. car parking spaces to serve the proposed units based on an office use. However, I note that no

details of employee nos. are provided within the application to ascertain parking requirements for Light Industrial/Warehousing Uses.

- 7.4.6. The Proposed Site Layout Plan indicates the development of 3 no. future units on site. Proposed units 3 and 4 are located centrally within the site and no details of interim proposals for this area are provided. I consider that the development as proposed constitutes a piecemeal development of the site.

Traffic Impact & Modal Split

- 7.4.7. I consider that there are significant information deficiencies within the application in relation to the nature of the proposal and associated traffic impact and cumulative traffic impact associated with the proposal and future units on site and the adjoining 5-unit commercial development to the north of the site.

- 7.4.8. I refer to the completed Donegal County Council Traffic and Transport Statement submitted in support of the application. This outlines that a total of 344 trips will be generated to the site per day by the proposed 2 no. commercial units. The following modal split is identified:

- Car driver – 40
- Car passenger – 80
- HGV – 4
- Pedestrian – 200
- Cyclist – 10
- Taxi – 10

- 7.4.9. I question the modal split identified within the application documentation. In particular, I consider that pedestrian trips to the site is overestimated, at a location removed from Letterkenny town centre, and private vehicle access is significantly underestimated. I do not consider that the layout as proposed is conducive to a pedestrian environment.

Conclusion

- 7.4.10. On the basis of the information submitted with the application and appeal I am not satisfied that sufficient information has been provided in relation to the specific

nature of the proposed development, associated potential traffic impacts and cumulative traffic impact.

- 7.4.11. I also have concern in relation to the layout of the internal road network which is dominated by an internal service road, includes haphazard parking layout and has limited pedestrian permeability. The overall function of this road and tie in with adjacent landholdings is un-defined within the application.
- 7.4.12. I consider that insufficient documentation has been submitted in conjunction with the application to demonstrate compliance with the criteria set out within Policy ED-P-14 of the DCDP and recommend that permission is refused for the development on this basis.

8.0 AA Screening

Screening Compliance with Article 6(3) of the Habitats Directive

- 8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

- 8.2. A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

Screening for Appropriate Assessment- Test of likely significant effects

- 8.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.4. The nearest designated European sites to the appeal site, including SAC's and Special Protection Areas (SPA's) include the following:
- Leannan River SAC – 4.2km
 - Lough Swilly SPA – 4.2km
 - Lough Swilly SAC – 4.2km
 - Lough Fern SPA -8km
 - Ballyarr Wood SAC – 7km

- Derryveagh And Glendowan Mountains SPA – 9.8km
- Cloghernagore Bog and Glenveagh National Park SAC – 11.2km
- River Finn SAC – 13.1km

- 8.5. An existing watercourse is located to the east of the site. EPA mapping illustrates that this watercourse flows in a northern direction towards the Glashagh River and then the Leannan River which links to the Leannan River SAC and the Lough Swilly SAC and Lough Swilly SPA all located over 8km upstream and to the northeast of the appeal site. Storm water proposals for the development seek to outfall to this existing ditch. Run off will be restricted to a greenfield rate. The Drainage report submitted in response to DCC's request for further information outlines that it is proposed to install Klargestar bypass separators to protect the receiving environment from hydrocarbons emanating from vehicles.
- 8.6. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.
- 8.7. There is a hydrological connection between the appeal site and the Leannan River SAC, the Lough Swilly SPA and the Lough Swilly SAC. All other Natura 2000 sites are located in excess of 7 kilometres from the subject site and due to the separation distance, the nature and location of the development and lack of pathway there is no potential to adversely impact on Natura 2000 sites in the wider area.

Brief description of Development

- 8.8. The development is described at Section 2 of this Report. In summary, permission is sought for construction of 2 no. commercial buildings and associated site development works including connection to public sewer and surface water outfall to the existing watercourse to the east of the site.

Submissions and Observations

- 8.9. Donegal County Council's Screening Determination concludes that:

"Having regard to the scale and nature of the proposed development on an existing serviced in-settlement site, alongside the physical distances from the nearest Natura 2000 site (4.5km), it is not considered that the proposed development would be likely

to have any significant effect, individually or in combination with any other plan or project, however, I am conscious of the presence of the existing stream at the rear of the site, this matter shall be assessed further on receipt of further information in relation to the drainage SUDS strategy. AA shall not be concluded until further drainage strategy is submitted”.

European Sites

- 8.10. There is a hydrological connection between the appeal site and the Leannan River SAC, the Lough Swilly SPA and the Lough Swilly SAC via the existing drainage ditch which runs to the east of the site. The proposal seeks to discharge surface water to this watercourse.
- 8.11. There are other European sites within a 15km search zone, however; in view of the nature of the development and the distance from these sites, I am satisfied that there is no possibility of significant effects arising at any European site other than those in the immediate vicinity of the site.
- 8.12. A summary of the Leannan River SAC, the Lough Swilly SAC and Lough Swilly SPA is presented in the table below.

| European Site (code) | List of Qualifying interest /Special conservation Interest | Distance from proposed development (Km) |
|--|--|--|
| <u>SAC</u> | | |
| Leannan River SAC (Site Code: 002176) | Oligotrophic waters containing very few minerals of sandy plains,Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea, Freshwater Pearl Mussel, Salmon, Otter, Slender Naiad. | 8 km upstream |
| Lough Swilly SAC (Site Code 002287) | Estuaries, Coastal lagoons, Atlantic salt meadows, Molinia meadows on calcareous, peaty or clayey-silt-laden soils, Old sessile oak woods with Ilex and Blechnum in the British Isles, Otter | 9km upstream |
| <u>SPA</u> | | |

| | | |
|-------------------------------------|---|--------------|
| Lough Swilly SPA (Site Code 004075) | Great Crested Grebe, Grey Heron, Whooper Swan, Greylag Goose, Shelduck, Wigeon, Teal, Mallard, Shoveler, Scaup, Goldeneye, Red-breasted Merganser, Coot, Oystercatcher, Knot, Dunlin, Curlew, Redshank, Greenshank, Black-headed Gull, Common Gull, Sandwich Tern, Common Tern, Greenland White-fronted Goose, Wetland and Waterbirds | 9km upstream |
|-------------------------------------|---|--------------|

Evaluation of Potential Significant Effects

- 8.13. I have considered the proposal in terms of potential impacts on the designated sites during the construction and operational phases of the development.
- 8.13.1. Construction related impacts relate to the escape of suspended soils or oil to the watercourse which runs to the east of the site and outfalls to the Leannan River SAC, Lough Swilly SAC and Lough Swilly SPA. The proposal is small scale in nature and will involve standard construction methods.
- 8.13.2. I note that a Construction Management Plan was not submitted in support of the application which details measures which would be adopted at construction phase of the development to negate against impact on the adjoining watercourse. In practice these may include standard and site-specific measures, such as those set out in TII publication Guidelines for the Crossing of Watercourses during Construction of National Road Schemes and IFI's Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites from surface water run-off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites (dilution factor).
- 8.14. Flood Zone Maps are illustrated on Map 9.1 (Zone A) and Map 9.2 (Zone B) of the Letterkenny Plan and Local Transport Plan. There is no record of flooding in the vicinity of the site.

- 8.15. At operational phase the proposal includes outfall of surface water to the watercourse to the east of the site. The Drainage report submitted in response to DCC's request for further information outlines outflow from the site will be restricted to greenfield run off rare. It is also proposed to install Klargestar bypass separators to protect the receiving environment from hydrocarbons emanating from vehicles. I am satisfied that the potential for likely significant effects on the conservation objectives of the European sites can be excluded given the distant and interrupted hydrological connection (a distance of over 8km), the nature and scale of the development and volume of water separating the application site from European sites. Therefore, surface waters and stormwaters arising from the proposed development would not be likely to give rise to significant indirect impacts on European sites connected with the site.
- 8.16. Foul drainage proposals seek to connect to the existing foul water network along the L1512-6 to the west of the site. Section 4.3.2 of the Letterkenny Plan and Local Transport Plan outlines that there is sufficient wastewater treatment capacity in Letterkenny the short-to-medium term following significant recent investments made by Uisce Éireann in the wastewater treatment plant at Magherenan. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge, and thus its impact on the overall discharge would be negligible.
- 8.17. Although a source-pathway-receptor linkage exists between the application site and the designated habitats of the Leannan River SAC(Site Code: 002176), the Lough Swilly SAC (Site Code 002287) and the Lough Swilly SPA (Site Code 004075) in this instance, given the distance of the appeal site from these designated sites, the nature of intervening development and dilution effects I do not consider that impacts on these designated Natura sites would arise.
- 8.18. I am satisfied, in view of this, that significant effects on the Leannan River SAC(Site Code: 002176), the Lough Swilly SAC (Site Code 002287) and the Lough Swilly SPA (Site Code 004075) arising during construction and operational are unlikely and the issue can therefore be excluded at this stage.

Cumulative Impacts

- 8.19. I have considered the proposal in conjunction with the concurrent application for commercial development to the north of the appeal site which is currently subject to appeal under ABP Reference: 316070-23.
- 8.20. As there are no impacts to the designated Natura 2000 sites arising as a result of this development, there is no potential for cumulative impacts. There are no likely impacts arising from the proposed development on Natura 2000 sites and therefore cumulative impacts with other projects will not occur.

Conclusion

- 8.21. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans and projects would not be likely to give rise to significant effects on the Leannan River SAC (Site Code: 002176), the Lough Swilly SAC (Site Code 002287) and the Lough Swilly SPA (Site Code 004075) or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore not required.

9.0 Recommendation

I recommend the permission is refused for the development in accordance with the following reasons and considerations.

10.0 Reasons and Considerations

1. Access to the development is proposed via a new entrance from the L 1512-6 to the west of the site. The L 1512-6 is identified as a Strategic Road Corridor (Western Network Project) within the zoning map and Table 22.2 and Map 22.4 of the Letterkenny Plan and Local Transport Plan 2023-2029 and as a Proposed Transportation Improvement Project within Table 5.1B County Donegal Development Plan 2018-2024 (as varied). Objective T-O-7 of the County Donegal Development Plan seeks: *To protect the corridors and routes and acquire the lands necessary for transportation improvement projects as*

identified in Table 5.1B. Policy LTP-T-P-5 of the Letterkenny Plan and Local Transport Plan seeks to: a. Support and facilitate the appropriate development, extension and improvement of Letterkenny's transport network, including the strategic roads projects identified in Table 22.2 below; b. Not to permit development that would prejudice the implementation of a strategic roads project identified in Table 22.2. c. Protect the corridors and routes and acquire the lands necessary for new roads and road improvement projects as identified in Table 22.2 below.

On the basis of the information set out within the application and appeal and having regard to the layout of the proposal the Board is not satisfied that the applicant has provided a sufficient justification for the creation of a new access to serve the development from the L1512-6 or demonstrated that the development would not prejudice the delivery of the Western Network Project. The proposed development is therefore considered to be contrary to the provisions of Objective T-O-7 of the County Donegal Development Plan 2018-2024 (as varied) and Policy LTP-T-P-5 of the Letterkenny Plan and Local Transport Plan 2023-2029 and the proper planning and sustainable development of the area.

2. The Board considers that there are significant information deficiencies within the application in relation to the specific use of the proposed commercial units and associated potential traffic impacts and cumulative traffic impact. The Board also has concern in relation to the layout of the development, which is dominated by the internal road network, includes haphazard parking and has limited servicing bays and pedestrian permeability. The overall function of the access road and its tie in with adjacent landholdings is un-defined within the application. The proposed development is considered to represent a piecemeal and haphazard development of the lands.

The Board is therefore not satisfied that the development is in accordance with Policy ED-P-14 of the County Donegal Development Plan which outlines 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; (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, maneuvering 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. The proposed development is therefore considered to be contrary to Policy ED-P-14 of the County Donegal Development Plan 2018-2024 (as varied) and the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Stephanie Farrington
Senior Planning Inspector

16th of May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | |
|---|---|------------------|---|
| An Bord Pleanála Case Reference | 316069-23 | | |
| Proposed Development Summary | 2 commercial buildings and new shared entrance. | | |
| Development Address | Killyclug TD, Letterkenny, Co. Donegal | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | | Yes | X |
| | | No | No further action required |
| 2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | |
| Yes | | Class..... | EIA Mandatory EIAR required |
| No | X | | Proceed to Q.3 |
| 3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]? | | | |
| | | Threshold | Comment (if relevant) |
| No | | N/A | No EIAR or Preliminary Examination required |
| Yes | X | Class 10 | Proceed to Q.4 |

4. Has Schedule 7A information been submitted?

| | | |
|------------|---|---|
| No | X | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

| | | |
|---|---|------------------------------|
| An Bord Pleanála Case Reference | 316069-23 | |
| Proposed Development Summary | 2 commercial buildings and new shared entrance. | |
| Development Address | Killyclug TD, Letterkenny, Co. Donegal | |
| The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations. | | |
| | Examination | Yes/No/ Uncertain |
| Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants? | No. The development is located within an existing urban context. No significant waste, emissions or pollutants are envisaged. | No No |
| Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing | The proposal has been assessed in conjunction with a concurrently appeal for 5 no. commercial units to the north of the site (ABP Ref: 316070-23). No significant cumulative considerations arise. | No No |

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| and/or permitted projects? | | |
| <p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p> | <p>Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans and projects would not be likely to give rise to significant effects on the Leannan River SAC(Site Code: 002176), the Lough Swilly SAC (Site Code 002287) and the Lough Swilly SPA (Site Code 004075) or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore not required.</p> | <p>No</p> <p>No</p> |
| <p align="center">• Conclusion</p> | | |
| <p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p> <p>X</p> | <p>• There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p> | <p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p> |

Inspector: _____

Date: _____