



An  
Bord  
Pleanála

## Inspector's Report ABP-316615-23

<b>Development</b>	Pedestrian path access and permission for completion of pedestrian path to include surfacing, low-level lighting, fencing, cctv and all associated site development works.
<b>Location</b>	Cill an Oir Costcutters/Applegreen services station , Killylastin/Killyclug , Letterkenny, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2251951
<b>Applicant(s)</b>	Parvathi Yellapu
<b>Type of Application</b>	Retention permission and permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party vs Grant
<b>Appellant(s)</b>	Neil Gallagher
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> September 2023
<b>Inspector</b>	Stephen Ward

## **1.0 Site Location and Description**

- 1.1. The site is located within the northwest peripheral environs of Letterkenny, at a distance of approximately 2.5km from the town centre. This suburban edge area is characterised mainly by low-density suburban housing and undeveloped agricultural lands. It is located close to the junction of several roads which serve the surrounding suburban estates and the wider rural and urban area.
- 1.2. The appeal site is linked to a larger mixed-use development to the west containing a fuel filling station and shop, car wash/valet facilities, a public bar/lounge/restaurant, 2 no. retail units, 4 no. apartments, a Pentecostal Church and associated parking/circulation facilities. The site itself is long and narrow and forms a right-angled shape. The shorter 'arm' of the site (c.60 metres) runs through an informal hardcore yard area to the rear (east) side of the filling station and shop. The longer 'arm' (c. 130 metres) extends eastward from the yard area and includes an unfinished pathway which connects to the Kilylastin Heights road.
- 1.3. The pathway is bound to the south by a mature hedgerow along the side of a dwelling and its front/rear gardens. Along the northern end of the path is a post and wire fence which bounds undeveloped lands.

## **2.0 Proposed Development**

- 2.1. In summary, permission was sought for the retention of an existing pedestrian path access and permission was also sought for the completion of the path to include surfacing, low-level lighting, fencing, CCTV, and all associated site development works.
- 2.2. It was proposed to upgrade the existing hardcore path to a 2m wide tarmac path over a length of c. 120m. Lighting columns (5m high) were proposed at 30m spacings. The CCTV security systems were to be installed at 2 no. locations along the path, and timber fencing was proposed along the length of the path.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 6th of April 2023, Donegal County Council (DCC) issued notification of the decision to grant retention permission and permission, subject to conditions.

The notable conditions of the decision can be summarised as follows:

2 – Lighting shall be hooded and aligned to prevent light spillage onto the road and 3rd party lands.

3 – Details of lighting to be agreed with the planning authority.

4 – Surface details to be agreed with the planning authority.

6 – Existing boundary treatment shall be retained.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The assessment outlined in the initial DCC Planner's report can be summarised as follows:

- The principle of any pedestrian friendly path/walkway is considered acceptable in principle. It would provide improved connectivity across lands currently being used as an unauthorised and informal 'short-cut' between the commercial site and Kilylastin.
- There are a number of design/location concerns regarding:
  - Lack of natural surveillance
  - Lack of existing footpath and cycle infrastructure along the western side of the Kilylastin Heights road
  - Lack of safety measures at the termination of the path
  - Anti-social behaviour concerns raised by third parties.
- A condition of the previous permission omitted the footpath, which is now subject to enforcement proceedings. The application seeks to reconsider this matter.

- The Draft Letterkenny Plan 2023-2029 highlights the site as having potential to provide 'local permeability'. It also proposes to zone adjoining lands to north as 'Local Environment' with limited development potential. However, this does not mean that the path cannot be upgraded and formalised and there are now material changes in how the planning authority should consider the proposal.
- There are a number of design concerns. The proposal fails to include cycle facilities, the concrete bollards at the eastern end are unsuitable, and connectivity with the commercial yard at the western end is substandard on grounds of vehicular conflict.
- The detail of the proposal requires further discussion with the Roads section in order to consider compliance with DMURS for example.
- Further information is required in relation to drainage details and any underground services under/across the path.
- The planner's report recommended a further information request in relation to the aforementioned concerns.

A further information request was subsequently issued on 7th February 2023 and the applicant responded on 15th March 2023. The response included design changes which can be summarised as follows:

- Provision of a 2m-wide segregated pedestrian path and a 2m-wide segregated cycle path.
- Replacement of existing concrete bollards at eastern end of path with one low-rise bollard to prevent vehicular access.
- Provision of concrete post and timber fencing along the southern boundary.
- Proposals for low-level and high-level lighting along the path.
- Proposals to extend the pathway through the existing commercial yard to connect with the existing shop.

Following receipt of the further information, the final planner's report generally outlines that the response has addressed the matters raised. It recommends to grant permission subject to conditions and this forms the basis of the planning authority decision.

### 3.2.2. Other Technical Reports

Roads: A report (dated 30th March 2023) in response to the further information received recommends that a drop kerb be installed opposite the pedestrian path.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

One third-party submission was received from the appellant in this case. The issues raised and the response of the planning authority to same have been addressed in the grounds of appeal (see section 6.1 of this report).

## 4.0 **Planning History**

There is a long planning history regarding a range of developments on the appeal site and surrounding lands, much of which has now either been constructed or has expired.

The relevant and recent cases relating to the appeal site and the larger adjoining commercial site to the west can be summarised as follows.

**P.A. Reg. Ref. 22/50485:** Permission granted (June 2022) for (1) retention of carwash & covered area also shed associated with car valet services, hardcored yard and pedestrian path, (2) completion of hardcored yard and path to include surfacing, low-level lighting, fencing and all associated site development works. Condition 3 of the decision stated as follows:

*3. (a) Within 3 months of the Notification of the Final Grant, the pedestrian link, for the full extent outwith the extent of land ownership (outside the blue line), between the site of the overall filling station and the footpath at Kilylastin Heights shall be removed and the area returned to grassed area.*

*(b) 1.8m high timber close board fence shall be provided at both ends of the path.*

*Reason: To define the permission and in the interests of residential amenity.*

**UD1914:** The planning authority reports cite this as an active enforcement case regarding unauthorised access road and change of use from agricultural to commercial use.

The following are the recent relevant applications on surrounding lands:

**ABP Ref. 316069-23:** Current appeal against the DCC decision to refuse permission (P.A. Reg. Ref. 22/51785) on lands to the north of the filling station for construction of (1) 2 no. commercial buildings and all associated site works to include connection to existing public foul sewer and (2) new shared entrance with adjacent commercial development under current plan. ref. no. 22/50608. The decision to refuse permission was based on prematurity pending the completion of the Letterkenny Plan 2023-2029 and, in particular, the proposed zoning of the site as 'local environment' rather than the current 'commercial' zoning.

**ABP Ref. 316070-23:** On a site located further north of the above referenced site (i.e. P.A. Reg. Ref. 22/51785) the decision of DCC to refuse permission under P.A. Reg. Ref. 22/50608 has been appealed. The application relates to 5 no. commercial units and the decision to refuse permission was based on prematurity pending the completion of the Letterkenny Plan 2023-2029 and, in particular, the proposed zoning of the site as 'local environment' rather than the current 'commercial' zoning.

**P.A. Reg. Ref. 23/51206:** Current application for the erection of a dwelling house on a site directly north of the junction of the pathway with the Kilylastin Heights road.

## 5.0 Policy Context

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

- 5.1.1. Section 5.1 of the Plan deals with Transportation. It acknowledges that walking and cycling are the most sustainable forms of transport and are key components to movement and accessibility in urban and inter-urban areas. Walking and cycling benefit the environment and the population by reducing pollution, noise and traffic congestion, as well as contributing to healthy more active lifestyles. Relevant policies and objectives can be summarised as follows:

T-O-4: To deliver optimum accessibility, ease of movement and to facilitate appropriate proposals for modal shift.

T-P-11: Facilitate the appropriate development of affordable, multi-modal transport solutions that offer communities real transport choices, including pedestrian and cycling.

T-P-12: Seek provision, improvement and extension of footpaths and lighting at appropriate locations subject to environmental, safety and amenity considerations.

T-P-31: Ensure that development proposals protect the route of potential linkages (such as linear parks, roads, footpaths, trails, greenways and cycleways) through the subject site where the planning authority considers that a strategic opportunity exists to provide a linkage to or between adjoining areas.

T-P-32: Ensure that the design and layout of multiple residential, community, large scale industrial and commercial development incorporates distinct and effective provisions for pedestrian and vehicular traffic movements within the site and its locality.

- 5.1.2. Section 6.2 of the Plan deals with Urban Housing and relevant policies can be summarised as follows:

UB-P-9: Direct pedestrian and cycle linkages shall be provided within proposals for new residential developments so as to interconnect with central amenity areas, adjoining neighbourhood developments and neighbourhood facilities. Linkages shall be provided in addition to the primary access to the development and shall be designed to maximise passive surveillance from surrounding properties, be well lit and maintained and the materials and finish shall be of a high quality. Linkages that follow indirect routes and/or to the rear of properties shall normally not be considered acceptable.

UB-P-12: To protect the residential amenity of existing residential units and to promote design concepts for new housing that ensures the establishment of reasonable levels of residential amenity.

- 5.1.3. Chapter 12 (Part C) of the Plan outlines the policies and objectives for Letterkenny. Under the Land Use Zoning Map, the main length of the pathway and the adjoining sites to the north and south are zoned as 'Established Development', the objective for which is:

*‘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 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.’*

The western portion of the site within the existing commercial yard is part of a larger area zoned as ‘commercial’, the objective for which is to reserve land predominantly for commercial use.

The majority of undeveloped lands in the wider surrounding area is zoned ‘Strategic Residential Reserve’, the objective for which is to reserve land for residential development as a long term strategic landbank.

The junction to the southwest of the ‘commercial’ area is reserved for upgrade as part of the strategic road corridors along four converging roads.

5.1.4. Section 12.4.1 deals with Transportation and relevant policies and objectives can be summarised as follows:

LK-T-O-4: To promote, support and encourage modal shift to walking and cycling.

LK-T-P-1 (e): Facilitate cycling and walking - A linked network of safe routes throughout the urban area, including safe routes to schools in partnership with other stakeholders.

LK-T-P-1 (g): Facilitate increased permeability – ensuring new development increases the incidences of linkages and flow of both public and private traffic, including pedestrian and cycle, throughout the town development envelope.

LK-T-P-8: Promote the development of cycling and walking as a viable transport option. To do so, all development proposals shall be accompanied by appropriate levels of provision for cycle and pedestrian movement including:

- Covered secure cycle parking which is convenient and located to allow for informal surveillance.
- Pedestrian and cycle friendly routes throughout new residential areas.



- Footpaths and cycle provision in order to adequately and conveniently access public transport, services/amenities and connect with the wider locality.

## 5.2. Draft Letterkenny Plan and Local Transport Plan 2023-2029

- 5.2.1. In accordance with the Draft Land Use Zoning Map, the main extent of the pathway and the adjoining sites to the north and south would remain zoned as 'Established Development'. The western portion of the site (i.e within the existing commercial site) would be zoned 'General Employment & Commercial', the objective for which is to reserve land for commercial, industrial and non-retail purposes and car sales. In this zone, services ancillary to industry and business including day to day facilities such as childcare facilities and cafes will be acceptable in principle, while proposals for retail uses that are ancillary to a permitted zoned use may be acceptable in principle, subject to the details set out in the land-use zoning matrix and associated footnotes.
- 5.2.2. Under the Draft Plan, the lands to the north of the existing commercial site would be rezoned to 'Local Environment' with limited development potential, although the Proposed Material Alterations (MA40 & MA41 – which were on public display until 8th September 2023) now propose a 'General Employment & Commercial' zoning. Some small infill sites in the immediately surrounding area would be rezoned 'Primarily Residential' but the majority of the current 'Strategic Residential Reserve' would be rezoned to 'Local Environment'.
- 5.2.3. Part B of the Draft Plan contains the Local Transport Plan and Chapter 19 outlines the Active Travel Strategy. This includes a range of proposed routes and schemes, including a specifically identified 'Local Permeability' route (as per Map 19.2) through the appeal site connecting Kilylastin Heights with the road to the west of the site. Relevant policies and objectives can be summarised as follows:
- LTP-AT-P-1 (a): Not permit development that would prejudice the implementation of any active travel scheme as set out on the Land Use Zoning Map or Map 19.2.
- LTP-AT-P-1 (c): Utilize existing footpaths and roads, and off-line routes identified on the Land Use Zoning Map or Map 19.2 and as opportunities arise, for the purpose of the development of 'Local Scale' and 'Interconnecting Arterial' walking and cycling routes.

LTP-AT-P-2 (a): Require that developments identify desire lines by incorporating filtered pedestrian permeability link(s) to adjoining land uses where such links would serve a meaningful purpose in terms of promoting active travel.

LTP-AT-P-2 (b): Ensure new residential and commercial development(s) shall be designed to the latest DMURS standards, unless precluded by space or other constraints, to be accessible and permeable for pedestrians, cyclists, vulnerable road users and those of reduced mobility.

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

The nearest Natura 2000 sites are the Lough Swilly SPA and the Lough Swilly SAC, which are located more than 3.5km southeast of the site. The Leanann River SAC is located c. 4.5km northwest of the site.

### **5.4. EIA Screening**

The development is not of a category included in Schedule 5 (Part 1 & Part 2) of the Planning and Development Regulations 2001, as amended. Therefore, there is no requirement for a preliminary examination or a screening determination regarding the need for environmental impact assessment.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

An appeal against the decision of DCC to grant permission was submitted by Neil Gallagher of Kilylastin, Letterkenny. The grounds of the appeal largely address the issues raised in his submission to DCC and the response of DCC to same, and can be summarised as follows:

- The decision erroneously conflicts with condition no. 3 of the previous decision (P.A. Reg. Ref. 22/50485) and subsequent enforcement proceedings regarding non-compliance with this condition. Condition no. 3 was attached on the basis of the 'established development' zoning and the need to protect residential amenity.

- The objection was also made on behalf of other residents and signatures can be provided if necessary. The development remains the same as the one the residents initially objected to under P.A. Reg. Ref. 22/50485.
- The errors and misinformation raised in the original objection have not been addressed by the planning authority. The original objection and the appeal challenge the applicant's claims of the long-standing use of the pathway and submit (with reference to photographs/images) that it was not used until 2019.
- The question of impacts on public/private sewage services running through the site has not been adequately addressed.
- The planning authority has ignored the current enforcement case regarding the unauthorised nature of the track, which is contradictory to the council's actions to date.
- The applicant has also disregarded condition no. 2 of P.A. Reg. Ref. 22/50485, which prohibits commercial use of the hardcore yard area, and there is unauthorised activity on the wider site. This requires further consideration, including the potential implications for the proposed path.
- The planner's reports under P.A. Reg. Ref. 22/50485 and the current application raised concerns about safety and anti-social behaviour. However, the same safety concerns were offset in this case with reference to the retention nature of the application.
- The appellant struggles to see how it is irrelevant that the path was not used until unlawfully developed by the applicant.
- The suggestion in the planner's report that the land 'could' have been planned originally as a form of access to the Strategic Residential Housing Reserve is unjust and seems to be a 'post hoc' claim to support the proposed development.
- Except by means of a path for HGVs, which itself does not satisfactorily address traffic movements and safety, the other safety concerns associated with the development have not been addressed.
- The planning authority has not addressed the main road access/exit which is a huge concern for safety. There is no footpath or crossings, and it represents a traffic hazard, especially for cyclists, at a blind spot on a heavily trafficked road.
- Despite the planning authority claims about better permeability, the residents do not want the access and there is already safe footpath and lighting facilities in

place for access to the site. The limited extent of the pathway will not provide any substantial advantage for the local area and would only encourage more anti-social behaviour.

- Additional lighting and CCTV will not aid the situation. Additional lighting will cause light spillage onto the appellant's property and make it easier to access for burglars.
- In the interest of residential amenity, the development needs to be closed at both ends using concrete barriers.

## **6.2. Applicant Response**

The applicant did not respond to the appeal within the statutory time period.

## **6.3. Planning Authority Response**

The response outlines a wish to rely on the approved DCC planner's reports. It has no further comment to make on the appeal.

## **6.4. Observations**

None.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. All parties in this case have made significant reference to the planning history of the site. The applicant and the appellant have outlined conflicting views regarding the historical use of the path, both in terms of the nature/purpose of use and the duration of use. There has also been significant reference to non-compliance with the terms of the previous permission (P.A. Reg. Ref. 22/50485) and subsequent enforcement proceedings regarding unauthorised development.
- 7.1.2. However, it must be highlighted that the application seeks to retain the existing extent of development and does not claim that it is exempted development or authorised by way of a grant of permission. It also seeks permission to improve/upgrade the pathway. Therefore, notwithstanding the planning history of the

site, I consider that the appeal must be considered by the Board on its merits and on a '*de novo*' basis.

7.1.3. Having regard to the documentation submitted in connection with the application and the appeal, and having inspected the site, I consider that the main issues for assessment in this case are as follows:

- Principle of development
- Traffic Safety
- Impacts on amenity.

## **7.2. Principle of development**

7.2.1. It is clear that the Development Plan, both generally and specifically in relation to Letterkenny (i.e. Chapter 12 (Part C)), supports the principle of improved permeability through pedestrian and cycle links. This is consistent with national land use and transportation policy which promotes compact sustainable development and less reliance on the private car. However, as outlined in section 5.1 of this report, the Development Plan (including Policy T-P-12) also highlights the need to consider the suitability of the location, context, and design of such links.

7.2.2. The Draft Letterkenny Plan and Local Transport Plan 2023-2029 generally echoes the Development Plan support and guidance in relation to such links. However, as per Map 19.2 of the Plan, there is a specific indication of a 'local permeability' route along the subject site. In relation to the 'draft' nature of the Plan, the Board should note that, as per section 18 (3)(a) of the Planning and Development Act 2000, as amended, the Board may consider any relevant draft local plan which has been prepared but not yet made.

7.2.3. The appeal also questions the need and/or value of the subject link. I consider this to be a relevant consideration, as is reflected in Policy LTP-AT-P-2 (a) of the Draft Letterkenny Plan which refers to promoting such links that would serve a meaningful purpose in terms of promoting active travel. In this regard, I note that the subject link would extend a total distance of c. 200m between Killylastin Heights road and the filling station shop. However, the same journey can be reached over a distance of c. 250m using the existing public footpath and lighting infrastructure along Killylastin

Heights and Long Lane. Accordingly, it is my opinion that the subject link would provide only limited improvements to permeability in the area.

- 7.2.4. I would conclude that walking/cycling improvements (however limited) should be supported in principle, particularly one which is specifically identified in a Draft Local Plan. However, planning policy highlights the need to ensure that such links do not result in adverse impacts, particularly in relation to public safety, anti-social behaviour, and residential amenity, concerns which have been strongly voiced in this appeal. Therefore, I consider that this case requires a balancing of the benefits of the link against the potential impacts on public safety and the amenities of the area.

### **7.3. Traffic Safety**

- 7.3.1. Traffic safety issues arise at the eastern and western ends of the path. At the eastern end, the path meets with the public road at Killylastin Heights. I note that the planning authority raised matters relating to bollards and drop-kerbing at this junction. However, my principal concerns relate to the lack of appropriate visibility and pedestrian/cycle crossing facilities.

- 7.3.2. Although the eastern side of the road has been developed with setbacks and footpaths etc., there is no footpath on the western side. The roadside boundary to the south of the junction has been setback to provide visibility. However, the boundary to the north has not been setback and is overgrown with vegetation which severely restricts visibility. This does not allow for adequate visibility for the path users exiting onto the Killylastin Heights road, which would be particularly hazardous for cyclists who may be traveling at a greater speed. In addition to this, there are no pedestrian/cycle crossing facilities proposed for the public road itself. On inspection of site, I noted that this is a quite busy stretch of road where a 60km/h speed limit applies.

- 7.3.3. At the western end of the site, it is proposed to extend the existing pathway to connect to the eastern (rear) side of the shop. The proposed path follows a right-angled route around the 'existing hardcored yard'. I note that the use and planning status of this hardcored yard has been questioned in the appeal. Having inspected the site, I can confirm that there is open vehicular access to the yard via the filling station. The yard is an informal hardcored space which appears to be used for the storage of HGV trailers and contains a public recycling facility (7 no. containers).

Accordingly, it is clear that informal vehicular movement does occur within the yard, as was witnessed on inspection of the site.

7.3.4. My concerns in this regard relate to the circuitous route of the proposed path. By avoiding the hardcored yard, it clearly does not follow the natural desire line between the existing shop and the western end of the existing path. I do not consider that the proposed path would be followed by prospective users, who would instead most likely follow the natural desire line directly through the informal yard. This would involve the use of a substandard hazardous surface for pedestrians/cyclists and would also bring users into potential conflict with vehicular movements within the informal yard arrangement. It is noted that the applicant's further information response acknowledged the potential for this vehicular conflict, but I do not consider that the proposals have satisfactorily addressed the matter.

7.3.5. Having regard to the forgoing, I consider that the development proposes substandard arrangements for the safe integration of pedestrian/cyclist movements with vehicular traffic, both along Killylastin Heights road and within the existing mixed-use site to the west. Accordingly, I consider that the proposal would endanger public safety by reason of a traffic hazard.

#### **7.4. Impacts on amenity**

7.4.1. As previously outlined, local planning policy (including T-P-12) supports the provision/extension of such links subject to appropriate locations, environmental, safety, and amenity considerations. Although Policy UB-P-9 relates to new links within proposals for new residential developments, it is of relevance given that it highlights the need to maximise passive surveillance from surrounding properties, be well lit and maintained, and that the materials and finishes shall be of a high quality. Policy UB-P-12 also aims to protect the residential amenity of existing residential units, as does the 'established development' zoning objective which applies to the majority of the site and adjoining sites to the north and south.

7.4.2. In terms of national design guidance, I would refer to the Urban Design Manual which accompanies the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (Department of Environment, Heritage and Local Government, 2009). I consider these guidelines to be relevant given the location of the site within a primarily residential area. Section 2 'Connections' highlights the

need to provide attractive routes for pedestrians and cyclists. It acknowledges the need to balance potential conflict between such connections and security, outlining that routes which are not overlooked, or otherwise passively supervised, provide opportunities for criminal or anti-social activities. It outlines a range of issues to be considered in assessing such proposals, which I have summarised and responded to in the table below.

<b>Consideration</b>	<b>Opinion</b>
If connections are under-used they may become unsafe. Will there be sufficient activity to justify a connection.	As previously outlined, I consider that the link is of limited benefit. I did not observe the link being used on site inspection and I do not consider that the proposed improvements would provide any significant justification.
Overlooking, active accommodation, and passive supervision. They should not be flanked by inactive frontages, e.g. back garden walls, which might encourage graffiti, vandalism or other crime. Passing vehicle traffic will also provide some passive supervision.	The majority of the route is flanked to the south by a mature hedge to the side of a blank gable. The land to the north is undeveloped. I note that there are two current applications for the development of adjoining lands to the north (i.e. ABP Ref. 316069-23 & P.A. Reg. Ref. 23/51206). However, even if permitted, I do not consider that these proposals would provide a satisfactory interface with the proposed development. I do not consider that passing vehicle traffic would provide any significant passive supervision.
There should be good visibility from other areas to minimise opportunities for hiding. For example, wider spaces, such as pocket parks, may be preferable to alley-ways.	The majority of the route would not benefit from good visibility from other spaces. As opposed to the suggested wider spaces, it would provide a very long and narrow confined space which would not provide adequate safety for users.
Connections should be sized so that emergency service vehicles (e.g. Garda vehicles) can pass through them as necessary.	In this case, the facilitation of vehicular access would not be possible given the limited width of the site.
Providing mixed uses.	Although there are mixed uses to the west of the site, there is no 'street activity' for the vast majority of the route.

- 7.4.3. Having regard to the above, I do not consider that the proposed connection is appropriately balanced with security and amenity considerations. Consistent with the Urban Design Manual guidance, I consider that this would provide opportunities for criminal or anti-social activities, which would seriously detract from the amenities of the area and the residential amenity of adjoining residential properties. This would conflict with the 'established development' zoning objective and other Development



Plan policies (T-P-12, UB-P-9, and UB-P-12) which aim to protect the amenities of the area. I acknowledge the proposals to address security concerns through the erection of lighting and CCTV. However, I do not consider that such proposals can be satisfactorily relied upon to protect the security and amenities of the area. As previously outlined, I consider that a more co-ordinated approach to natural surveillance is required through the appropriate design, layout, and development of adjoining lands.

- 7.4.4. I note other concerns raised in the appeal regarding light spillage and potential damage to underground services. However, I consider that lighting concerns could be satisfactorily addressed by design and that any concerns about damage to private services is a civil matter for resolution between the relevant parties.

## **7.5. Conclusion**

- 7.5.1. In conclusion, I confirm that I would be strongly supportive of additional pedestrian/cycle links in accordance with local and national policy. However, such support is dependent on an appropriate context and quality of design. I consider that the subject link would provide only limited permeability improvements, and that such links would not safely integrate with vehicular movements at either side of the route. Furthermore, I consider that the route is of an unacceptable design which would not be sufficiently used or overlooked to prevent the potential for significant adverse impacts on the amenities of the area. Accordingly, I consider that the proposal should be refused.
- 7.5.2. I do consider that a satisfactory link could be achieved at this location in accordance with the Draft Letterkenny Plan. However, I consider that any such proposal would have to be provided in conjunction with the development of the adjoining lands to the north and west with suitably active frontage/overlooking, as well as proposals to address the other concerns outlined throughout this report.

## **8.0 Appropriate Assessment**

Having regard to the nature and limited scale of the works, and to the absence of proximity or connectivity with the Natura 2000 network, it is considered that the development to be retained and completed, individually, or in combination with other

plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

## **9.0 Recommendation**

Having regard to the foregoing, I recommend that retention permission and permission should be refused for the reasons and considerations set out hereunder.

## **10.0 Reasons and Considerations**

1. The works to be retained and carried out follow a route through an area zoned 'Established Development' as per the County Donegal Development Plan 2018-2024, the objective for which aims to conserve and enhance the quality and character of the area and to protect residential amenity. Having regard to the significant length of the proposed route and the absence of passive surveillance from surrounding development, it is considered that the proposal would constitute a haphazard approach to permeability which would give rise to unacceptable security and amenity impacts for adjoining properties and the wider area. The proposal would, therefore, be contrary to the zoning objective for the area and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the inadequate proposals for pedestrian/cyclist visibility and crossing facilities at the junction with the Killylastin Heights road at the eastern end of the route, as well as inadequate proposals to integrate pedestrian/cyclist movements with vehicular traffic movements within the existing mixed-use site at the western end of the route, it is considered that the additional pedestrian/cyclist movements likely to be generated by the development would endanger public safety by reason of a traffic hazard.

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.

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Stephen Ward  
Senior Planning Inspector

25<sup>th</sup> September 2023