



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319244-24

<b>Development</b>	Extension of agricultural shed.
<b>Location</b>	Straid, Clonmany, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2351323
<b>Applicant(s)</b>	Paul Doherty.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Teresa Gordon Dr Bernard Doherty
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	2 <sup>nd</sup> May 2024
<b>Inspector</b>	Ronan O'Connor

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	3
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	5
4.0 Planning History .....	5
5.0 Policy Context .....	6
5.1. Development Plan .....	6
5.2. Natural Heritage Designations .....	7
5.3. EIA Screening .....	7
6.0 The Appeal .....	7
6.1. Grounds of Appeal .....	7
6.2. Applicant Response .....	9
6.4. Planning Authority Response .....	9
6.6. Observations .....	10
6.7. Further Responses .....	10
7.0 Assessment .....	10
8.0 AA Screening .....	15
9.0 Recommendation .....	16
10.0 Reasons and Considerations .....	16
11.0 Conditions .....	17

## **1.0 Site Location and Description**

- 1.1. The subject site is located in Straid, approximately 2km south-west of Clonmany. The site is located within an existing farm holding comprising agricultural sheds on both sides of the public road. The existing shed can be accessed directly from the public road. Access is also provided to the rear of the shed via an existing laneway (indicated as a right of way on the site location plan) from the adjoining public road L-6971-1. The adjoining road is a loop road providing access to and from the main L-1611-2 public road to Clonmany.

## **2.0 Proposed Development**

- 2.1. Extension of agricultural shed.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Grant permission with conditions [decision date 22<sup>nd</sup> February 2024]. There are no conditions of particular note.

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

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

The first Planner's report [dated 24<sup>th</sup> October 2023] is summarised below:

- FI required to demonstrate the lawfulness of the existing development/Principle not established.
- Development is in keeping with the character of the area/no visual amenity concerns arise.
- FI is required to ensure separation distance of 30m from the nearest residential dwelling is adhered to.

- Effluent generated will be contained and spread in accordance with GAP regulations.
- Not considered that the proposed development would result in an intensification of the existing access.
- Vision lines considered adequate.
- Clarification required in relation to pipework/surface and soiled water drainage/water supply.
- Further information recommended.

3.2.2. Further Information was requested on 26<sup>th</sup> October 2024 in relation to the following items:

1. Planning Status of existing shed.
2. (a) Separation distance of 30m from the nearest residential dwelling  
(b) Surface and soiled water management.
3. Water supply.

3.2.3. Further Information was received on 12<sup>th</sup> December 2023.

3.2.4. The second Planner's report is summarised below:

- On the balance of probability, it is reasonable to assume the existing shed was either exempted development or had the benefit of planning permission (which has been misplaced).
- Revised plans indicate a 30m separation distance to the nearest residential dwelling.
- Surface water details provided/third party consent will be required to connect to the existing pipe on adjoining private laneway.
- Water supply will be from existing well/details provided.
- Clarification of Further Information Recommended.

3.2.5. Clarification of Further Information was requested on 11<sup>th</sup> January 2024 in relation to the following item:

1. Third party consent for the surface water connection

3.2.6. Clarification of Further Information was received on 2<sup>nd</sup> February 2024.

3.2.7. The third Planner's report is summarised below:

- Noted that the surface water drainage connection no longer runs through third party lands.
- Third party consent is no longer required for same.
- Recommendation was to grant permission.

3.2.8. Other Technical Reports

3.2.9. None.

### 3.3. **Prescribed Bodies**

3.3.1. None.

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

3.4.1. 5 no. third-party submissions were made at application stage. The issues raised are similar to those raised in the grounds of appeal below (see summary of same in Section 6.1).

## 4.0 **Planning History**

### Subject site

T8/85 Grant permission Erection of a cattle crush [no additional details available]

### Adjacent site to south and east

20/51802 – Grant Permission Erection of an agricultural shed and associated site works [date of decision 28/01/2021]

## 5.0 Policy Context

### 5.1. Development Plan

The relevant plan is the County Donegal Development Plan 2018-2024 (as varied)<sup>1</sup>.

With reference to Map 7.1.1 Scenic Amenity the site is located within an Area of High Scenic Amenity

Policies of relevance are as follows:

- NH-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.
- NH-P-8 - It is the policy of the Council to safeguard the scenic context, cultural landscape significance, and recreational and environmental amenities of the County's coastline from inappropriate development.
- NH-P-9 - It is the policy of the Council to manage the local landscape and natural environment, including the seascape, by ensuring any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of the area.
- NH-P-13: It is a policy of the Council to protect, conserve and manage landscapes having regard to the nature of the proposed development and the degree to which it can be accommodated into the receiving landscape. In this regard the proposal must be considered in the context of the landscape classifications, and views and prospects contained within this Plan and as illustrated on Map 7.1.1: 'Scenic Amenity'.

Appendix 3 Part B 'Development Guidelines and Technical Standards'

---

<sup>1</sup> Elected Members adopted the Donegal Draft County Development Plan 2024-2030 at a Special Council Meeting on 16th May 2024. This Plan will come into effect on the 27th June 2024 (6 weeks after it has been adopted) except for any parts of the plan which may subsequently be subject to a Draft Ministerial Direction.

## **5.2. Natural Heritage Designations**

- 5.2.1. None. The nearest nationally designated site is the Bulbin Mountain pNHA (side code 000120) which is located approximately 0.8km to the south of the site. The nearest European site the North Inishowen Coast SAC (site code 002012) which is located approximately 3.1km to the north of the site. The North Inishowen Coast pNHA (site code 002012) is also located approximately 3.1km to the north of the site.

## **5.3. EIA Screening**

- 5.3.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a preliminary examination or screening assessment. I refer the Board to Appendix 1.

## **6.0 The Appeal**

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

- 6.1.1. 2 no. appeals have been received from (1) Teresa Gordon and (2) Bernard Doherty. The grounds of appeal are summarised as follows:
- Existing shed does not have planning permission.
  - Lack of an Ecological Assessment/Impact on wildlife and biodiversity/impacts on the North Inishowen Coast SAC/reference is made to Policy EP-P-14 and NH-P-1/may be a material contravention of same.
  - Impact on natural spring located near the proposed site/will cause additional water damage to laneway.
  - Impact of manure/slurry on watercourse/surrounding area/release of greenhouse gases.
  - Noise concerns/number of trips understated/12 trips or more made to an existing slatted shed near the site/increased traffic noise/enclosed nature of the proposed development will exacerbate noise issues.

- Existing noise from sheepdogs/impact on tourists.
- Quality of life of residents and their families will be adversely affected.
- Noise during construction stage.
- Traffic hazard/traffic volume will exceed 10% of existing traffic on the adjoining road/TTA required/road safety concerns.
- Difficult to see how vision lines have been achieved due to the nature of the junction/road/obstructions.
- Visual impact of the shed/industrial appearance incongruous with the rural setting/combination of multiple agricultural buildings/impact on the amenity and character of the area/diminishes value as a destination for residents and tourists alike.
- Reference to Policy CS-0-10/impact on established rural communities.
- Impact of odour.
- Vermin control.
- Would be prejudicial to public health.
- Would block access road.
- Impact on daylight.
- Impact on property value.
- Proximity to existing buildings.
- Impact on privacy/CCTV cameras.
- Impacts of wastewater.
- The water drainage pipe is not owned by Donegal County Council/was installed as part of a Community Involvement Scheme with financial contributions from third-party landowners.
- FI dwgs show the drain 'moved' from the middle of the right of way to within the site.



## **6.2. Applicant Response**

6.3. A first-party response to the appeals was received on 8<sup>th</sup> April 2024. This is summarised below:

- Documents enclosed with the appeal response show that the applicant is the full owner of lands right across the laneway
- Enlc: Folio map

## **6.4. Planning Authority Response**

6.5. A response from the Planning Authority to the appeals was received on 4<sup>th</sup> April 2024. The issues raised are summarised below:

- Majority of matters raised have been addressed in the planning reports.
- Proximity of the proposed development to the appellant's property is acknowledged/there is a long-established agricultural use at this site and the wider landholding
- Expected number of tractor movements is not considered excessive
- Provision of an agricultural shed is an appropriate and compatible use
- Would facilitate the ongoing development and improvement of an established agricultural business
- Would not be excessive in scale
- No evidence submitted to support claims in relation to legal title/considered applicant has demonstrated sufficient legal interest/matters relating to legal title are not within the remit of the PA to resolve/reference made to Section 34(12) of the PDA 2000, as amended.
- Disturbance/odour from the housing of animals is inevitable in a rural location
- No evidence that the proposed development would be prejudicial to public health
- Satisfied that the proposed development would be appropriately monitored through compliance with good agricultural practice/monitoring by the Department of Agriculture, Food and the Marine

- Request ABP uphold the decision of the Planning Authority

## **6.6. Observations**

6.6.1. None.

## **6.7. Further Responses**

6.7.1. None.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. Having examined the application details and all other documentation on file, after an inspection of the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues on this appeal relate to the following:

- Principle of the Development
- Traffic Impacts
- Impacts on Residential Amenity
- Visual Impact/Impact on Landscape
- Other Issues

### **7.2. Principle of Development**

7.2.1. The site is located within a rural area where the predominant land use is agriculture, although the proximity of residential uses to the site is noted (and considered below). There is an existing agricultural shed on the site, with an associated cattle crush and hardstanding area. I am satisfied that this agricultural proposal is consistent with nature of the site and the use is acceptable in principle. However, any permission is predicated on the shed being acceptable in terms of compatibility with other objectives in the development plan and overall protection of the environment and public health. I have considered same below.

- 7.2.2. In terms of the lawfulness of the existing shed, the Planning Authority has concluded that the shed is lawful, either by way of exempted development or via an existing permission. In relation to this issue, I would note that matters of enforcement are within the remit of the Planning Authority, and it is not the role of Board to determine the lawfulness, or otherwise, of the existing shed.

### **7.3. Traffic Impacts**

- 7.3.1. The appeal submissions raise concerns in relation to the number of potential trips per day (it is stated that there could be up to 12 trips per day, as per the existing slatted shed near the site), and it is stated that a TTA is required (as traffic volumes will be increased by over 10% of existing). Increased noise from same is also cited as a concern. It is further stated that the applicant cannot achieve the vision lines as set out in the application documentation.
- 7.3.2. In relation to the above concerns, there is no evidence submitted to support the claim that a TTA is required. It is very unlikely that a proposal of this scale and nature, in a rural environment, would have a significant impact on the road network. I would also note the nature of this road, which is effectively a loop road, with existing traffic volumes likely to be low. A proposal of this nature would be expected to generate some additional traffic volumes, but not on a scale that would be inappropriate nor unexpected in a rural, agricultural setting. I am not of the view that the proposed development would result in the existing access road being blocked, or unavailable for any significant period of time, and there is no evidence to support this claim. Furthermore, I am not of the view that any additional traffic generated by the proposed development would have a material impact on the existing noise environment.
- 7.3.3. In relation to vision lines/visibility from the site, I would note that the vision lines as set out on the plan would appear to be achievable in practice, and while the road does rise in elevation to the north-west, and the access is on a bend in the road, neither of these factors limit the visibility to and from the access to site. Existing signage and telegraphs do not appear to limit visibility to such a degree that would give rise to any road safety concerns. I would not also that traffic volumes are likely to be low, as noted above, and traffic speeds are also likely to be limited, given the aforementioned bend in the road. Furthermore, the access is an existing access

point, where there are existing agricultural related traffic movements from and onto the local road. As such, I am satisfied that the proposed development will not result in any significant impact on the surrounding road network nor will it give rise to any road safety concerns.

#### **7.4. Impacts on Residential Amenity**

- 7.4.1. The activities associated with moving and managing livestock would have the potential to cause disturbance by reason of odour and noise. In relation to same, I note that the closest residential dwelling is located 30m to the south of the proposed extension to the existing shed. I note that such a separation distance from dwellings is quite frequently accepted in similar cases on appeal (relating to slatted sheds), and I am satisfied that the proposed separation distance is sufficient to limit amenity impacts on this dwelling to the south. I would also note that the site is located within an existing rural, agricultural environment, where some impacts from odour and noise from agricultural developments are somewhat inevitable. However, I would note the adherence to good agricultural practices, as required by the European Union (Good Agricultural Practice for Protection of Waters) Regulations, will serve to limit odour impacts from the shed.

#### **7.5. Visual Impact/Impact on Landscape**

- 7.5.1. I note that the Development Plan sets out three distinct Landscape Character Classifications – ‘Areas of Especially High Scenic Amenity’, ‘Areas of High Scenic Amenity’ and ‘Areas of Moderate Scenic Amenity’. The site falls within an area of ‘High Scenic Amenity’ and Policy NP7 applies to same, which allocated for development that integrates within and reflect the character and amenity designation of the landscape. In relation to same, and as noted above, that the proposed development is within an existing established agricultural farmyard. Having regard to the established nature of the existing farmyard, and to the scale and height of the proposed shed, and its location proximate to the existing farmyard, I am satisfied that the development will not result in an adverse impact on the visual or scenic amenity of the area. In terms of landscape impacts, the immediate receiving landscape is an existing farmholding. The proposed shed would appear as a moderate extension to same, and would integrate adequately within the landscape, and would not detract

from the value of same, in my view. Overall, I consider the development is in accordance with Policies NH-O-7, NH-P-6, and NH-P-13 of the CDP.

#### **7.6. Impact on water quality/Flooding**

- 7.6.1. The appeals submissions have stated that there will be an impact from wastewater, and there will be an impact on the existing spring located near the site. It is further stated that proposed development will result in an exacerbation of the existing flooding of the access laneway, that current occur due to this spring. In relation to potential impacts on water quality, I note that there is no evidence of a direct connection between the spring and the site. Notwithstanding, I note that, at construction stage, standard best practice construction measures will prevent pollutants entering any surrounding drains, springs or other watercourses, within close proximity to the site. At operational stage, clean surface water runoff/storm water from hardstanding outside of the shed will be directed to the existing drain. The detailed design of this storm water system will be designed to the satisfaction of the Planning Authority and this drainage system will be designed so as to prevent contaminated storm water entering drains, springs or other surface water bodies. At operational stage, effluent generated within the slatted shed and soiled water from the existing cattle crush is directed to the underground tank. I note that this will be designed and sealed in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations, as amended. As such, any significant impacts on water quality, and subsequently public health, resulting from contaminated surface water run-off are unlikely.
- 7.6.2. In relation to flooding, there is no evidence to suggest that the construction or operation of the shed will result in any impacts on the spring that would result in a material change in water volumes from same, or would result in any impact that could cause a deterioration of any existing flooding issues.

#### **7.7. Other Issues**

- 7.8. Impacts on Biodiversity – The appeal submissions have raised concerns in relation to impacts on biodiversity and cite the lack of an Ecological Assessment. In relation to same, I note the relatively minor nature of the development. I would also note the nature of the existing site which relatively small site, mainly comprised of hardstanding and a grassed area, and there is no evidence to suggest that it is of

particular ecological significance. As such, there is no evidence to suggest that the proposed development would result in any significant adverse impact on biodiversity, and furthermore, I am not of the view that an Ecological Assessment is a requirement in this instance.

- 7.9. Impact on daylight/sunlight – The proposed shed is located 30m to the north of the dwelling to the south. I am satisfied that this distance is sufficient to ensure that there will be no material impact on the daylight the windows of same. The orientation is such that that there will be no impact on sunlight to this residential dwelling.
- 7.9.1. Construction Phase Disruption – It is nature of such works that there may be an element of disturbance on a short-term basis as a result of the construction works. However, the scale of the works proposed here should not lead to disturbance that would give rise to significant adverse impacts on amenity, having regard to noise, vibration and dust.
- 7.9.2. Impact on property value – I am of the view that the extension to the existing agricultural shed, such as proposed under this application, in an rural agricultural area such as this one, would be considered an acceptable and expected form of development, and supported in principle by Development Plan policies, and while I note the content of the appeal submitted, I do not think it is a reasonable assertion that property values would be diminished by a development such as the one proposed here and there is no evidence submitted with the appeal to support the assertion that the proposed development would have a negative impact on the value of the appellant's property, and I am satisfied that this is unlikely to be the case.
- 7.9.3. Impact on privacy/CCTV – The location and operation of any CCTV cameras does not fall within the scope of this appeal and falls within the remit of other relevant legislative provisions.
- 7.9.4. Access to drainage pipe/legal title issues – The appellants have stated that third party consent is required to connect to the existing drain and that this is not under the ownership of Donegal County Council. In relation to same, the site layout plan, received at Clarification of Further Information stage, indicates a surface water drainage connection to the existing pipework. The PA have accepted that the applicant has demonstrated sufficient legal interest in order to connect to this drain and state that no evidence has been submitted to refute this. The applicant has

submitted a folio map indicating that the proposed connection to the existing pipe can be made within lands within his ownership.

- 7.9.5. In relation to the above, it would appear that a surface water connection can be made within the lands owned by the applicant. Notwithstanding, issues in relation to land ownership/legal title are not within the remit of the Board, and I refer also to Section 34(13) of the PDA 2000, as amended, which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. The proposed development comprises the construction of an extension of to an existing agricultural shed. The nearest European site the North Inishowen Coast SAC (site code 002012) which is located approximately 3.1km to the north of the site.
- 8.1.3. The 2 no. third-party appeals raise concerns in relation to potential impacts on the North Inishowen Coast SAC but have not referred to any specific impact mechanisms nor have the appeals referred to any direct or indirect ecological links to same.
- 8.1.4. From my observations on site, there are no watercourses running through the site. Third parties have referred to a spring located in close proximity to the site. With reference to EPA mapping, there is no named watercourse running through or directly adjacent to the site. The nearest EPA mapped watercourse is the Ballyhallan Stream located approximately 120m to the east of the site. No hydrological links with any Natura 2000 sites are readily apparent, however, and there is no evidence on file that would point to any direct or indirect surface water hydrological links with any Natura 2000 sites.
- 8.1.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The small scale and nature of the proposed development.
- Nature of works e.g. small scale and nature of the development
- The distance to the nearest European site and lack of any readily apparent connections to same.
- Standard pollution controls that would be employed regardless of proximity to a European site, and effectiveness of same.
- The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 and the requirement of the proposed development to be constructed and operated in accordance with same.

8.1.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

8.1.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

9.1.1. I recommend that permission is granted for the following reasons and considerations.

## **10.0 Reasons and Considerations**

10.1.1. Having regard to the nature and scale of the development within an established agricultural farmyard, it is considered that, subject to compliance with the conditions as set out below, the development would not seriously injure the residential or visual amenity of the area, would not give rise to any material impacts on the road network, nor would it give rise to a traffic hazard, and would be acceptable in terms of public health and environmental sustainability. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12<sup>th</sup> Day December 2023 and on the 2<sup>nd</sup> Day of February 2024, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. The use of the proposed building shall be for agricultural purposes only.

**Reason:** In the interest of clarity.

3. The development shall be designed and constructed in accordance with the Department of Agriculture, Food and the Marine specifications as per the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (S.I 113 of 2022).

**Reason:** In the interest of public health and residential amenity.

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

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

5. Site access arrangements, and the provision and maintenance of visibility splays, shall comply with the requirements of the planning authority for such works.

**Reason:** In the interests of road safety.

6. The structure herein permitted shall be constructed and finished in a manner that is consistent in appearance with the adjoining agricultural structures within the existing farmyard complex.

**Reason:** In the interest of visual amenity.

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.

---

Ronan O'Connor  
Senior Planning Inspector

21<sup>st</sup> May 2024

## Appendix 1 - Form 1

### EIA Pre-Screening [EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	319244-24		
<b>Proposed Development Summary</b>	Extension of agricultural shed.		
<b>Development Address</b>	Straid, Clonmany, Co. Donegal.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>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?</b>			
<b>Yes</b>			
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>	X		No EIAR or Preliminary Examination required
<b>Yes</b>			

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_