



An
Bord
Pleanála

Inspector's Report

ABP-319705-24

Development

Construction of a commercial building consisting of offices and maintenance workshop for vehicles in connection with a logistics business and all associated site works.

Location

Lurganboy, Donegal Town, Co.
Donegal

Planning Authority

Donegal County Council

Planning Authority Reg. Ref.

2460264

Applicant(s)

Seamus and Lisa McGowan.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Seamus and Lisa McGowan.

Observer(s)

Bridin McIntyre
Radoslaw Dlugosz & Tomasz Bystrek
Moll Industries Ireland Ltd.

Date of Site Inspection

22nd of October 2024.

Inspector

Stephanie Farrington

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2: Form 2: EIA Preliminary Examination

Appendix 3: Details of Extension of Lifetime of Seven Strategic Towns Local Area Plan 2018-2024

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 1.67 ha, is located in the townland of Lurganboy to the south of Donegal Town. The site is currently greenfield, in agricultural use, and occupied by a number of mature trees. Access to the site is provided via the adjoining private industrial estate road to the north, which is accessed from the L6695. A gated entrance is provided to the site from the estate road. The application site boundary extends to include part of the road to the north-east. The topography of the site increases from the east to the west.
- 1.2. The existing pattern of development in the vicinity of the site includes residential development to the southeast and southwest and employment uses and Donegal Craft Village to the northwest.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a commercial building consisting of offices and repair/ maintenance workshop for vehicles in connection with logistics/ haulage business and associated hardcore parking area and site works. Access to the development is proposed via the existing estate road to the north. The public notices refer to the upgrading of the existing industrial estate road. The development includes reduction in site levels and connection to watermains, public sewer and stormwater systems adjacent to the proposed site.
- 2.2. The proposed commercial building has a gross floor area of 520 sq.m. and a finished floor level of 18.47m. The height of the building is 6.66m.
- 2.3. The application is accompanied by the following documentation:
 - Completed Application Form and Public Notices
 - Letter of Consent from application for agent to act on their behalf
 - Completed Donegal County Council Traffic and Transport Statement
 - Application Drawings

3.0 Planning Authority Decision

3.1. Decision

Donegal County Council refused permission for the development in accordance with the following reasons and considerations:

1. It is a policy of the Council (Policy GEN-EH-1, Seven Strategic Towns Local Area Plan 2018- 2024 (as varied)) to permit only economic development that is of a scale and nature that is home-based or relates to tourism-based activities on lands zoned as Local Environment. On the basis of the information submitted, the proposed development for a logistics base and repair workshop for an outsize haulage business that is of a scale and type that does not comply with the requirements of Policy GEN-EH-1. Accordingly, to permit the proposed development would materially contravene the aforementioned policy provisions of the Seven Strategic Towns Local Area Plan 2018-2024 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.
2. It is a policy of the Council (Policy GEN-ED-5, Seven Strategic Towns Local Area Plan 2018- 2024 (as varied)) to permit economic development where *‘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.’* Having regard to the existing vision lines at the junction of the access road and L-6695-1 and in particular in the deficiency of visibility to the south of said junction and to an absence of detail of visibility or any improvement measures in the submitted application, the proposed development does not comply with the requirements of policy provisions. Accordingly, to permit the proposed development would constitute a traffic hazard and would materially contravene aforementioned policy provisions of the Seven Strategic Towns Local Area Plan 2018-2024 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.
3. It is a policy of the Council (Policy GEN-ED-5, Seven Strategic Towns Local Area Plan 2018- 2024 (as varied)) to permit economic development where

inter alia, *‘The proposed development would not harm the amenities of nearby residents’ and ‘The proposed development would not create a noise nuisance’ and ‘The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity.’* Having regard to the scale and nature of the proposed development and in particular proximity to residential properties and Donegal Craft Village, to the volume of excavation works proposed and to an absence of detail relating to potential impacts from noise, emissions, surface water runoff or any measures to mitigate against same in the submitted application, the proposed development does not comply with the requirements of policy provisions. Accordingly, to permit the proposed development would detrimentally impact on existing amenities, would materially contravene aforementioned policy provisions of the Seven Strategic Towns Local Area Plan 2018-2024 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner’s report recommends that permission is refused for the development in accordance with the planning authority’s decision. The following provides a summary of the key points raised:

Principle of Development

- The report outlines that the development is contrary to the Local Environment land use zoning objective pertaining to the site and Policy GEN-EH-1 of the Seven Strategic Towns Local Area Plan (LAP).
- The report outlines that in accordance with the zoning objective permission may be considered for home based economic development or for small-scale development that contributes significantly to local economy and relates to crafts, tourism, etc. The report outlines that the nature and scale of the proposed development is contrary to Policy GEN-EH-1 of the LAP.

- The report furthermore outlines that the proposal is not in accordance with Policy ED-P-3 of the County Donegal Development Plan 2018-2024 as the development is not for a firm proposal, is not compatible with the local environment and would not contribute to the local economy beyond existing employee levels.

Impact on Residential and Local Amenities

- The report outlines that insufficient information is provided within the application in relation to the proposed level of excavation, details of the finish of the proposed retaining wall and lack of provision of oil/petrol interceptors within the storage yard or repair shed. Insufficient information is also provided in respect of potential noise impact on nearby residential properties.
- The report raises concern in relation to the proposed removal of 3 no. mature landmark trees on site. The report outlines that while these are not protected their removal would be detrimental to the amenities of the area. The report outlines that there may be opportunity to protect these trees in the forthcoming LAP review.
- The report outlines that there is insufficient information within the application in relation to the relationship of the development to existing adjoining development and states that the proposed building may be overly dominant in the context of the local area.
- The report outlines that the proposed development taken in its entirety and having regard to the location and siting of same, requires extensive excavation to facilitate construction. It is considered that the extent of works is excessive and detrimental to the visual and natural amenities of the local area.
- The report furthermore raises concern in relation to potential noise impact on nearby residential properties and associated impact on residential amenity. The Local Environment zoning objective of the site has in effect operated as a “buffer zone” between the established economic development and residential sites. The report also raises concern in relation to the potential impact of the

development on Donegal Craft Village in terms of increased HGV movements and associated noise impact.

Access/ Traffic Safety

- The report outlines that the existing access road in the vicinity of the site is private and cross refers to the observations on the application in relation to ownership/right of way. The report outlines that this requires clarification.
- The report outlines that no details are provided in relation to vision lines at the junction of the access road and the L-6695-1 and cross refers to the DCC Road's Report.
- The report outlines that in the absence of substantial and comprehensive improvements to the junction to facilitate traffic movements, the road network as existing does not have capacity to accommodate the development. The report states that proposed development is considered to cause a traffic hazard and recommends the permission is refused for the development in this regard.

Other Issues

- Under the heading of Other Issues, the report refers to insufficient information within the application in relation to stormwater drainage proposals and potential impact on downstream flooding.
- In terms of Appropriate Assessment, the report outlines that Donegal Bay SAC is located c.480m away and while significant adverse impacts are considered to be unlikely the planning authority cannot carry out a thorough AA Screening in the absence of drainage proposals and details of construction methodology (on the basis of excavation works).
- The report raises concern in relation to the potential impact of the proposal on the permitted DCC sandbag depot immediately to north of the appeal site.

Environmental Impact Assessment

- The report outlines that 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.

Recommendation

- The report recommends that permission is refused for the development for 3 no. reasons in accordance with the planning authority's decision.

3.2.2. Other Technical Reports

Building Control (11/03/2024)

- No objection subject to conditions.

Roads Report (02/04/2024)

The report recommends a request for further information in respect of the following:

- The existing vision lines to the south, at the junction where the private road meets the public road is not in compliance with the requirements of the CDP. There is a concern if this development goes ahead that slower moving HGV's leaving the site and trying to negotiate this junction will result in safety issues for motorists travelling north bound on the public road (L-6695-1).
- The vision lines also need to be detailed at the proposed entrance to make sure the proposed entrance gate and associated wall/fencing is not impeding the vision line at this location.
- The report refers to information deficiencies in relation to storm water discharge.
- The report refers to flooding issues downstream of the site and states that onsite attenuation needs to be provided to ensure that surface water run-off from the site is no greater than greenfield run-off. This needs to be assessed by a suitably qualified engineer/consultant.

Environment Section – Senior Executive Chemist (07/03/2024)

No objection to the proposal subject to noise condition as detailed below:

- The applicant shall put in place appropriate noise mitigation measures, and abide by normal operating hours, in order to ensure that noise nuisance is not experienced at any noise sensitive location in the locality. The recommended noise levels at site boundaries shall not exceed 45 dBA from 10pm to 8am and not exceed 55dBA between 8am and 10pm.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

20 no. third party observations were submitted in respect of the application. The issues raised primarily reflect those raised within the observations on the application and are briefly summarised as follows:

- Traffic and Road Safety Concerns – Inadequacy of the road network to serve the development
- Visual Impact
- Impact of the proposal on Donegal Craft Village and Tourism
- Environmental Concerns: noise, air and light pollution, impact of refuelling depot on soil. Lack of a screening for the development and potential impact on Natura 2000 sites.
- Lack of surface water proposals.
- Insufficient information on the submitted application drawings – no details in relation to the DCC depot.
- Demonstration of ownership/right of way over access road.
- Impact on Residential Amenity and Depreciation in property values.

4.0 Planning History

Appeal Site Planning History

The following planning history relates to the appeal site.

- PA Ref: 04/1665: Permission granted by Donegal County Council (DCC) in September 2005 for the construction of 12 houses and 10 no. duplex units on the site.
- PA Ref: 06/20391: Permission refused by DCC in May 2006 for construction of a 3-storey apartment block comprising 6 no. apartments on site. The

reasons for refusal related to (1) the location of the apartment block on the outskirts of the town and non-compliance with the existing pattern of development in the area and material contravention of the Donegal LAP 2005-2011 (2) overdevelopment of the site and impact on residential amenities of the adjacent single storey house to the south east (3) inadequate private open space and material contravention of Policy R-7 of the LAP which relates to private open space standards.

- PA Ref: 1020264: Permission granted by DCC in March 2011 for a residential development comprising 10 houses and 12 duplex units associated site works and connection to services.

Other Relevant Planning History

The appeal refers to the following decision of Donegal County Council on lands at Spierstown, Donegal:

- PA Ref 23/50949: Retention permission refused in August 2023 for agricultural buildings on site and temporary permission to retain storage area of the yard for haulage trailers at Spierstown, Donegal town. The reasons for refusal outlined (1) the use would be a material contravention of the County Donegal Development Plan 2018-2024 and (2) negative impact on the capacity of the N15.

5.0 Policy Context

5.1. Development Plan

Seven Strategic Towns Local Area Plan 2018-2024

- 5.1.1. The Seven Strategic Towns Local Area Plan 2018-2024 was adopted by Donegal County Council on in July 2018. The lifetime of the LAP was extended in July 2023 and will remain in effect until a replacement plan is adopted by the Council (as detailed in Appendix 3).
- 5.1.2. Donegal County Council's website outlines that a review of the Seven Strategic Towns Local Area Plan has recently commenced, and updates will be provided on the Council's website as the LAP progresses. Donegal County Council have verbally

confirmed that the background information for the LAP is currently being prepared and it is anticipated that public consultation will commence in August 2025.

Chapter 1: Introduction

- 5.1.3. Section 1.3 relates to the Form and Content of the LAP and its relationship with the County Donegal Development Plan. The following is noted in this regard:

“The LAP comprises a Written Statement with accompanying maps. The Written Statement shall take precedence over the maps should any discrepancy arise between them. The CDP and the LAP should be read in tandem when interpreting the specific policies and objectives for the seven strategic towns. Where conflicting policies and objectives arise between the CDP and the LAP, the policies and objectives of the CDP shall take precedence. The general development management policies and standards of the CDP are applicable to the LAP”.

Chapter 2: Policy Context

- 5.1.4. Donegal Town is identified as a Level 2A Strategic Town performing a “Special Economic Function” within the core strategy. The LAP outlines that the town has the following functions: Development Centre with a focus on tourism, Tourism and the wild Atlantic way, Centre for the delivery of Local Authority services.
- 5.1.5. Strategic Objective SO6 of the Plan seeks *“To develop Donegal Town as a key service centre for employment, retail, services and community facilities in the south of the County as well as performing as one of the best tourism hubs in the country for accommodation and tourism product thereby sustaining a population of upwards of 3,000 people by 2024”.*

Section 3: General Objectives and Policies of the Plan

- 5.1.6. Section 3.2 of the LAP relates to Land Use Zoning Objectives. Table 3.1 sets out details of the of zoning objectives within the LAP. Map 6 of the LAP sets out the Landuse Zoning Map for Donegal Town. The subject site is zoned for “Local Environment” purposes in the LAP. This zoning objective seeks *“To provide for limited one- off housing and small-scale economic development so as to ensure the continued settlement pattern and sequential and transitional development of the towns through to rural areas”.*

5.1.7. Section 3.4 of the Plan relates to Economic Development within the LAP area. The Plan outlines that *“Vibrant and sustainable economic development in the wider plan area is critical for successful towns to perform as strategic economic drivers in the County. Therefore, this LAP identifies a range of sites outside the town centre that have the capacity to accommodate a range of economic development types including retaining the vibrancy and continuation of ‘Established Economic Development Areas’ and identifying other lands as ‘Economic Development’ or as ‘Opportunity Sites’ for specified and particular types of development”*.

5.1.8. The following Development Objectives and Development Policies are of relevance:

- Objective GEN-ED-1: *It is an objective of the Council to support vibrant and sustainable economies in the 7 towns covered by this LAP through the identification of a range of lands for the purposes of economic development including ‘Established Economic Development’ areas, ‘Economic Development’ areas and ‘Opportunity Sites’ subject to compliance with all other objectives and policies of this LAP, compliance with the Habitats Directive and subject to all other material planning considerations including environmental considerations.*
- Policy GEN-ED-5: *It is a policy of the Council that any proposal for commercial or retail use, in addition to other policy provisions of this Local Area Plan, will be required to demonstrate compliance with all of the following criteria –*
 - (i) The proposed development is compatible with surrounding land uses existing or approved;*
 - (ii) The proposed development would not harm the amenities of nearby residents.*
 - (iii) There is existing or programmed capacity in the water and wastewater infrastructure or suitable developer-led improvements can be identified and delivered;*
 - (iv) 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.*

- (v) Adequate access arrangements, parking, manoeuvring and servicing areas can be provided in line with the Development and Technical standards set out in the CDP or as otherwise agreed in writing with the Planning Authority;*
- (vi) The proposed development would not create a noise nuisance.*
- (vii) Any emissions from the proposed development can be dealt with in accordance with relevant standards;*
- (viii) The proposed development would not adversely affect important features of the built heritage or natural heritage including Natura 2000 sites;*
- (ix) The proposed development is not located in an area at flood risk and/or will not cause or exacerbate flooding;*
- (x) The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;*
- (xi) Appropriate boundary treatments and means of enclosure are provided and any proposed areas of outside storage are adequately screened from public view;*
- (xii) The proposed development would not compromise water quality nor conflict with the programme of measures contained within the current North Western River Basin (NWIRBD) Management Plan.*

Environment and Heritage

- 5.1.9. Section 3.7 of the Plan relates to Environment and Heritage. Section 3.7.1 of the Plan outlines the following in respect of lands zoned for Local Environment purposes:

Within the urban context of each town covered by this LAP, lands have been identified as 'Local Environment' where they provide a transition for the sequential growth of the town through to the rural area. These lands are characterised by limited existing settlement patterns, a lack of public infrastructure services and in many cases are areas of significant agricultural activity. This LAP aims to secure the character of these transitional areas whilst providing opportunities for limited one-off

housing and small scale economic development (Objective GEN-EH-1 and Policy GEN-EH-1 refer).

- Objective GEN-EH-1: *It is an objective of the Council to provide for limited one-off housing and small scale economic development so as to ensure the continued settlement pattern and sequential and transitional development of the towns through to rural areas.*
- Policy GEN-EH-1: *It is a policy of the Council to consider limited residential and economic development proposals in areas identified as 'Local Environment' in accordance with the following: (i) That proposals for single dwellings within areas zoned 'Local Environment' will only be considered in circumstances where the land in question is in family ownership and where the applicant/s can demonstrate a genuine need to reside on the subject site. Proposals for multiple housing developments (i.e. 2 or more dwellings) within areas zoned 'Local Environment' will not be considered. Any proposal for a single dwelling within such areas will only be permitted where it can be demonstrated that the proposal: a) would integrate harmoniously with the local landscape, utilising and retaining key landscape features such as trees and hedgerows and; b) would not have an adverse impact on the existing character of the area or the residential amenity of adjoining properties and; c) would otherwise comply with all relevant policies and objectives of this LAP.*
(ii) That proposals for the appropriate provision of economic development will be considered subject to all relevant material considerations, relevant policies of this LAP and relevant environmental designations and where it can be demonstrated that: a) The proposal could serve as a valuable addition to the local economy and/or tourism offering in an area such as those related to food, forestry, crafts, creative industries, ecotourism and agri-tourism or; b) The proposal comprises a home-based business of limited scale (circa 1-2 employees), located within the curtilage of an existing dwelling house.

Section 9: Donegal Town

- 5.1.10. Section 9 of the LAP relates to Donegal Town. The Strategic Vision for the town as set out within Section 9.3 of the LAP is *"That Donegal Town will be performing as a key service centre for employment, retail, services and community facilities in the*

south of the County as well as performing as one of the best tourism hubs in the country for accommodation and tourism product thereby sustaining a population of upwards of 3,000 people by 2024”.

5.1.11. Section 9.4.5 of the LAP relates to designated opportunity sites within the town. This outlines that *“9 ‘Opportunity Sites’ have been identified in this LAP due to their potential to contribute to the economic development of Donegal Town and/or due to their particular strengths, characteristics or requirements”.*

5.1.12. Section 9.5 relates to Economic Development and outlines that *“Established economic development in Donegal Town in the wider area outside of the town centre exists in clusters occurring along the key routes into the town including at the Ballybofey Road at Drumlonagher, along the Killybegs Road, and at Lurganboy around Abbotts Ireland, Cherrymore Kitchens and the Craft Village as well as a dense cluster of economic activity at the Mullans off the Lough Eske Road. This LAP strategy aims to provide for appropriate expansion of existing economic development by identifying suitable adjoining lands and where clustering of business activity has the potential to flourish within readily available/already serviced sites. These lands are identified as ‘Economic Development’ on Map 6”.*

5.1.13. Development Objective DT-ED-1 is of relevance as follows:

- Objective DT-ED-1: It is an objective of the Council to consolidate and strengthen existing clusters of economic development in Donegal Town and provide suitable land capacity for new flagship economic development projects with a particular focus on tourism related activities, business, enterprise and research and innovation.

5.1.14. Section 9.7 of the LAP relates to Infrastructure and Services. Figure 9.3 sets of the Donegal Town EE Flood Extents Mapping. The appeal site is not located within an area at risk of flooding.

Environment and Heritage

5.1.15. Section 9.9 of the LAP relates to Environment and Heritage. Section 9.9.1 outlines that the wider peripheral area of Donegal Town comprises a sporadic settlement pattern of one-off housing and there is significant evidence of agricultural activity. Where appropriate, peripheral lands that form part of the transition of the town to the

rural area have been identified as ‘Local Environment’ wherein only limited development will be considered.

5.1.16. Section 16: Development Guidelines and Technical Standards

The LAP outlines that *“A full suite of ‘Development Guidelines and Technical Standards’ can be viewed in the Donegal County Development Plan 2018-2024 , part B, Appendix 3”*.

County Donegal Development Plan 2024-2030

5.1.17. At the time of the assessment of the application, the County Donegal Development Plan 2018-2024 (as amended) was the operative development plan for the area. The application was assessed by Donegal County Council in accordance with the policies and objectives of this plan.

5.1.18. The County Donegal Development Plan 2024-2030 was adopted on the 16th of May 2024. On the 26th of June 2024 the Minister of Housing, Local Government and Heritage issued a Draft Ministerial Direction under Section 31 of the Planning and Development Act 2000 (As Amended) concerning certain objectives, policies, and land use zonings within the Development Plan (including within the Buncrana and Ballybofey/Stranorlar Area Plans). On the 26th of June 2024 the County Development Plan 2024-2030 came into effect except those parts of the plan affected by the Draft Ministerial Direction. The sections highlighted in yellow within the Development Plan are subject to the Draft Ministerial Direction. The Ministerial Direction does not relate to the appeal site or impact on the provisions of the plan as they relate to the proposed development.

5.1.19. I have assessed the proposal in accordance with the provisions of the operative development plan namely the County Donegal County Development Plan 2024-2030.

Chapter 3: Core Strategy

5.1.20. Donegal Town is designated as one of 5 designed County Growth Driver’s within the Development Plan. The Plan outlines that *“whilst Letterkenny is acknowledged as the main centre of employment, the smaller settlements throughout the County play a crucial and oftentimes specialised role. This Core Strategy recognises those important roles and identifies five towns that are key to driving growth in their*

respective localities and indeed beyond, and having regard also to their servicing capacities". The Strategy allocates over one quarter of the total projected growth to these settlements.

Chapter 7: Economic Development

5.1.21. Section 7.4 of the Plan relates to aligning economic development and job creation with the core strategy. Objective ED-O-1 seeks: *To align job creation with the Core Strategy's Settlement Hierarchy with a view to achieving a jobs ratio of 1.0 and above in Letterkenny and those settlements identified as County Growth Drivers.*

5.1.22. The Plan outlines that: *"A review of lands zoned for economic and mixed-use development was carried out as part of the review of the County Development Plan. This review identified the quantum and location of existing zoned lands across key settlements. The Area Plans included in this plan as well as those due for adoption over the lifetime of the plan shall review existing employment, mixed use and residential zonings to ensure an adequate supply of such lands in optimal locations".*

5.1.23. The following policies are of relevance:

- Policy ED-P-2 *To direct development involving industrial buildings and/or industrial processes and warehouse/storage use to appropriately zoned lands, or lands currently used for such purposes in Letterkenny, Growth Driver Settlements and Service Towns.*
- Policy ED-P-9: *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 northwestern river basin management plan.

Chapter 11: Natural, Built and Archaeological Heritage

5.1.24. Map 1.11 relates to Scenic Amenity. The appeal site is located within an area designated as being of high scenic amenity within Map 1.11 of the County Development Plan. Policy LP-2 of the Plan seeks: “To protect areas identified as ‘High Scenic Amenity’ and ‘Moderate Scenic Amenity’ on Map 11.1 ‘Scenic Amenity’. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan”.

Chapter 16: Technical Standards

5.1.25. Table 16.6 Sets out Stopping Sight distances for Urban Areas within 60kmph speed limit zone as follows:

- 40km/ph – 33m
- 50 km/ph – 45m
- 60km/ph – 59m

5.1.26. Table 16.7 sets out the following standards for stopping sight distances – 60 km/ph – 90m, 50 km/ph – 70m.

5.1.27. Table 16.8 relates to Car Parking Standards. The following standards are set out for Industrial/Light Industrial/Storage or Distribution: *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.*

Industrial and Commercial Development:

5.1.28. The Plan outlines the following in respect of Industrial and Commercial Development.

All industrial and commercial development proposals shall be subject to environmental and all other planning considerations and shall be located and designed in accordance with TII, EPA Guidelines and Standards and any such future publications.

- *Landscaping and in appropriate cases, buffer zones between different uses will be required to be provided. Developers shall provide effective screening from the public road or residential areas, where appropriate.*
- *All service areas shall be located entirely within the curtilage of the site with adequate manoeuvring space and a suitable means of access to the public road being provided.*
- *All waste materials shall be stored to the rear of buildings in environmentally safe conditions and shall be screened from public view.*
- *All waste shall be stored in such a manner so as to ensure runoff shall not seep into surface water drainage system.*
- *All runoff from bunded areas shall be collected and disposed of separately from surface water drainage.*
- *All fuel connection points or similar discharge points shall be rollover bunded.*

- *All ducting (public and private) shall be designed and installed in accordance with 'Recommendations for Underground Telecommunications Cable Works - For Road, Commercial and Residential Schemes'. DCNR*

5.2. Natural Heritage Designations

5.2.1. The appeal site is not located within any designated European site. The nearest designated European sites to the appeal site include the following:

- Donegal Bay (Murvagh) SAC (Site Code 000133) – 0.39 km
- Donegal Bay (Murvagh) pNHA (Site Code 000133) – 0.39 km
- Donegal Bay SPA (Site Code 004151) – 0.42 km
- Lough Eske and Ardnamona Wood SAC (Site 000163) – 1.67km
- Lough Eske and Ardnamona Wood pNHA (Site 000163) – 1.67km
- Barnesmore Bog NHA (Site Code 002375) – 9km
- Tamur Bog SAC (Site Code 001992) – 10km

5.3. EIA Screening

5.3.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

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

- The appeal provides a background to the application and refers to an application submitted by the applicant to retain existing development under PA Ref 23/50949 on a site at Spierstown, Donegal. The appeal refers to the

history of refusals of permission associated with this site and enforcement proceedings. The applicant is seeking an alternative site within Donegal to accommodate the development and was given until March 2024 by a court judge to submit an application for an alternative site in Donegal.

- The appeal outlines that the applicant considered alternative sites within Donegal to accommodate the haulage company. The company employs 35 no. people. The appeal refers to the requirements of any site i.e. to be suitable to accommodate vehicles carrying long trailers for the transportation of wind turbines. The appeal includes an assessment of alternative sites within the town (attached as Exhibit B of the appeal). This assessment concludes that there are no suitable sites within Donegal town which could accommodate the development. The appeal outlines that Donegal Town does not have adequate zoning for the type of facility proposed and associated vehicle turning movements. The appeal site is in the ownership of the applicant.
- The appeal details the applicant's engagement with Donegal County Council in relation to the preparation of the County Donegal Development Plan 2024-2030 which was in draft format at the time of the decision being issued on the application. The appeal outlines that they have requested that the site is rezoned within the County Development Plan.
- The appeal outlines that the road network in the vicinity of the site is suitable to accommodate the development and refers to the presence of existing commercial development within the area. The appeal outlines that the road is sufficiently wide to accommodate movements associated with HGV's and associated turning movements. The appeal outlines that there would be limited activity on site outside of working hours.
- The Board is requested to consider granting permission for the development.

Attachments

The appeal is accompanied by the following appendices:

- Exhibit A: Planner's Report and Internal Roads Report associated with PA Ref: 23/50949

- Exhibit B: Report entitled “Planning Permission History at Donegal Town” which includes a review of designated opportunity sites within the town. This report concludes that there are no suitable, alternative sites within the town to accommodate the development.
- Exhibit C: Correspondence addressed to Donegal County Council.
- Exhibit D: Correspondence from Donegal County Council dated 4th of March 2024.

6.2. Planning Authority Response

Donegal County Council provided a response to the grounds of appeal. The following provides a summary of the key points raised:

- The grounds of appeal and site history are noted. The reference in the appeal to an existing site in use by the applicant elsewhere in Donegal is outside the remit of the subject application.
- The premise that the application has only been made in response to ongoing enforcement actions to satisfy the requirements of a court judge is of no substance in the appeal.
- It is the responsibility of the applicant to operate their business in an authorised and regulated manner.
- The submission refers to pre-application advice given to the applicant in respect of the proposal in relation to non-compliance with the zoning objective of the site set out within the Seven Strategic Towns LAP 2018-2024. It is stated that a review of the LAP is imminent.
- The appeal response restates the concerns of the Planning Authority in relation to capacity of the site to accommodate the nature of development proposed. The report outlines that the road network does not have the capacity to serve the proposal and raises concerns in relation to vision lines at the junction of the access road with the local road.
- The report cross refers to the third-party submissions on the application which raise concerns in relation to the impact of the development on residential

amenity by reason of noise, vehicular movements, emissions and surface water run-off. The proposal is also deemed detrimental to the continued operation of the Donegal Craft Village.

- The PA's response outlines that further matters raised have previously been addressed within the Planner's Report dated 11th of April 2024.

6.3. Observations

3 no. observations were submitted in respect of the first party appeal. The following provides a summary of the issues raised within each observation.

Bridin McIntyre

- The observation raises concerns in relation to the potential impact of the proposal on the local environment, infrastructure and quality of life for residents in the area.
- The observation outlines that the development is contrary to the provisions of Policy GEN-EH-1 of the Seven Strategic Towns Local Area Plan. The LAP remains in place as of June 2024. In this regard the observation outlines that the proposal constitutes an inappropriate economic development and not in accordance with the nature of employment provided for under the site's zoning objective, would negatively impact on residential amenity of residents of The Grange (noise, light pollution and loss of visual amenity) and is incompatible with surrounding land uses.
- The observation outlines that the proposal is not in compliance with GEN-ED-5. In this regard the observation outlines that the development is incompatible with adjoining land uses and would impact on the residential amenities of existing properties at The Grange associated with the continuous operation of large haulage vehicles. It is furthermore stated that the existing road network cannot safely accommodate traffic associated with the proposed haulage business, in particular HGV's. The access road is narrow in width and the junction with Rarooney Road is dangerous. The observation refers to the presence of a residential area, nursery and Gaelscoil in the vicinity and

outlines that increased traffic associated with the development poses a risk to children and vulnerable road users.

- The observation outlines that the applicant's justification for site selection on the basis that it is the only site available in Donegal town which has capacity to accommodate the development is not acceptable. The observation states that the development is incompatible with existing residential development in the vicinity in terms of noise, traffic and local environment impacts. The observation outlines that while there are existing commercial premises within the area these are different in scale and operation to the proposed haulage business (i.e. office units, café and small-scale retail units). The observation furthermore outlines that the adjoining road network is constrained and unsuitable to accommodate traffic associated with the proposal.
- The proposal is incompatible with the zoning objective pertaining to the site.
- The observation concludes that the appeal site is unsuitable for the development of a haulage business due to proximity to a residential area, the inadequate road network incompatibility with the zoning objective pertaining to the site and existing economic development. The observation requests that permission is refused for the proposal to ensure the preservation of residential amenities, road safety and the integrity of the local area plan.

Radoslaw Dlugosz & Tomasz Bystrek

- The observation raises concern in relation to the impact of the proposal on the residential amenity of existing properties at The Grange. It is stated that noise and fumes from Heavy Goods Vehicles (HGV's) associated with the development will decrease quality of life of existing residents, impact on working from home and negatively impact on local wildlife.
- The observation raises concern in relation to the proposed reduction in site levels and construction of retaining walls. It is stated that this element of the proposal would have environmental implications including habitat disruption and soil erosion. The observation outlines that the removal of the existing trees on site will affect local wildlife particularly birds and bats who may be roosting in the trees.

- The observation states that the scale and design of the development and associated hardstanding areas will have a significant visual impact on the surrounding landscape and character of the area.
- The observation outlines that the road network in the vicinity of the site is unsuitable to accommodate the development.
- The observation outlines the need to protect open green areas for residential amenity, public enjoyment and well-being.
- The observation raises concern in relation to light pollution associated with the development and its impact on local residents and the local environment.
- The observation requests the Board to undertake a thorough assessment of the proposed development's environmental and social impacts.

Moll Industries Ireland Ltd.

- The observation outlines that the Traffic Impact Report submitted in conjunction with the application is insufficient. The observation outlines that the application documentation assumes 10 HGV trips per day and states that this is a significant understatement. The observation outlines that the existing road network and junction with the Rarooney Road junction is insufficient to accommodate the development.
- The observation refers to potential storm water runoff from the site to the adjoining road network and potential environmental impact associated with oil and fuel leaks.
- The observation raises concern in relation to the visual impact of the development including the proposed 20m wide 2m high gate and proposed fencing along the roadside boundary and removal of existing trees.
- The observation seeks clarification on the ownership and right of way along the proposed access road. The observation outlines that no details are provided in relation to the approved Donegal County Council Depot on the adjacent site.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the observations received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development – Compliance with Policy
- Access and Transportation
- Impact on Residential Amenity and Local Environment

In addition to the above, the issue of Appropriate Assessment Screening is addressed in Section 8 of this report.

7.2. Principle of Development – Compliance with Policy

7.2.1. Donegal County Council's 1st reason for refusal outlines that the proposed development of a logistics base and repair workshop for a haulage business would materially contravene Policy GEN-EH-1 of the Seven Strategic Towns Local Area Plan 2018- 2024 (as varied) which seeks to permit only economic development that is of a scale and nature that is home-based or relates to tourism-based activities on lands zoned for Local Environment purposes. The observations on the appeal outline that the proposal is contrary to the provisions of the Local Area Plan (LAP) and the zoning objective pertaining to the site.

Changes to Policy Context

7.2.2. The first party appeal furthermore refers to the updated policy context pertaining to the site and refers to submissions made in respect of the County Donegal Development Plan 2024-2030. I note that at the time of the assessment of the application, the County Donegal Development Plan 2018-2024 (as amended) was the operative development plan for the area. The application was assessed by Donegal County Council in accordance with the policies and objectives of this plan and the provisions of the Seven Strategic Towns Local Area Plan 2018-2024.

7.2.3. The County Donegal Development Plan 2024-2030 was adopted on the 16th of May 2024. On the 26th of June 2024 the Minister of Housing, Local Government and Heritage issued a Draft Ministerial Direction under Section 31 of the Planning and

Development Act 2000 (As Amended) concerning certain objectives, policies, and land use zonings within the Development Plan (including within the Buncrana and Ballybofey/Stranorlar Area Plans). On the 26th of June 2024 the County Development Plan 2024-2030 came into effect except those parts of the plan affected by the Draft Ministerial Direction. The sections highlighted in yellow within the Development Plan are subject to the Draft Ministerial Direction. The Ministerial Direction does not relate to the appeal site or impact on the provisions of the plan as they relate to the proposed development.

- 7.2.4. I have assessed the proposal in accordance with the provisions of the operative development plan namely the County Donegal Development Plan 2024-2030 (CDDP). In this regard I note that the general policies and objectives and development management objectives for the County are set out within the CDDP. The adopted Development Plan does not include a written statement or zoning map for Donegal town. No changes to the zoning objective pertaining to the site have therefore been made as part of the Development Plan process. The Seven Strategic Towns Local Area Plan 2028-2024 remains the relevant LAP. The lifetime of the LAP was extended in July 2023 and the LAP will remain in effect until a replacement plan is adopted by the Council (as detailed in Appendix 3).
- 7.2.5. Donegal town is designated as 1 of 5 Core Growth Drivers within County Donegal within the Settlement Hierarchy set out within the CDDP. The policies and objectives of the CDDP support economic related development within the designated County Growth Drivers. Objective ED-O-1 seeks: *To align job creation with the Core Strategy's Settlement Hierarchy with a view to achieving a jobs ratio of 1.0 and above in Letterkenny and those settlements identified as County Growth Drivers.*
- 7.2.6. The appeal site is zoned for Local Environment purposes within the Seven Strategic Towns Local Area Plan with an objective *"To provide for limited one- off housing and small-scale economic development so as to ensure the continued settlement pattern and sequential and transitional development of the towns through to rural areas"*.
- 7.2.7. DCC's notification of decision to refuse permission for the development outlines that the development would materially contravene Policy GEN-EH-1 of the Seven Strategic Towns Local Area Plan 2018- 2024. This policy relates to lands zoned for Local Environment purposes and outlines that:

'It is a policy of the Council to consider limited residential and economic development proposals in areas identified as 'Local Environment' in accordance with the following:

(ii) That proposals for the appropriate provision of economic development will be considered subject to all relevant material considerations, relevant policies of this LAP and relevant environmental designations and where it can be demonstrated that: a) The proposal could serve as a valuable addition to the local economy and/or tourism offering in an area such as those related to food, forestry, crafts, creative industries, ecotourism and agri-tourism or; b) The proposal comprises a home-based business of limited scale (circa 1- 2 employees), located within the curtilage of an existing dwelling house.'

- 7.2.8. On the basis of the information set out within the application documentation I am not satisfied that the proposed haulage business would constitute a "limited" or "small scale" economic development as provided for under the Local Environment zoning objective pertaining to the site or Policy GEN-EH-1. The proposed development does not relate to *food, forestry, crafts, creative industries, ecotourism and agri-tourism industries and is not a home-based business*. On the basis of the information set out within the application I do not consider that the proposal represents a scale or format of development which is consistent with the "Local Environment" zoning objective pertaining to the site or the guidance set out within Policy GEN-EH-1 of the LAP. I consider that the proposed development of the site for a haulage business would materially contravene the Local Environment zoning objective pertaining to the site and would be contrary to the provisions of the Seven Strategic Towns Local Area Plan 2018-2024 (including Policy GEN-EH-1).

Lack of Alternative Sites

- 7.2.9. The first party appeal sets out a justification for the proposed development on the basis of the lack of appropriately zoned sites within Donegal town to accommodate the development and the enforcement and planning history of the applicant's current operations at Spierstown, Donegal. The appeal includes a document entitled "Planning Permission History at Donegal Town" which includes a review of designated "Opportunity Sites" within the town (attached as Exhibit B of the appeal). A total of 9 no. alternative sites are considered by the applicant and these are

discounted for reasons relating to environmental impact, insufficient size and topographical constraints, traffic impact and access constraints and unavailability. The report concludes that there are no suitable, alternative sites within the town to accommodate the development. The report outlines that the appeal site is suitable having regard to existing access arrangements and its location contiguous to lands zoned as Established Economic Development and Economic Development purposes.

7.2.10. In considering the grounds of appeal I note that Objective GEN-ED-1 of the LAP supports economic development on lands zoned for 'Established Economic Development', 'Economic Development' areas and 'Opportunity Sites' subject to compliance with all other objectives and policies of this LAP, compliance with the Habitats Directive and subject to all other material planning considerations including environmental considerations. I consider that the applicant's consideration of alternative sites is limited in that it relates solely to designated Opportunity Sites within the town and does not consider alternative appropriately zoned sites. On the basis of the information submitted I am not satisfied that the applicant has demonstrated that there is a deficiency in suitable zoned lands within Donegal to accommodate the development. As detailed further in this assessment I furthermore do not consider that the applicant has demonstrated that the appeal site is a suitable location to accommodate the development on grounds of the Local Environment zoning objective pertaining to the site, the impact on residential amenity and access restrictions.

Consideration of Material Contravention

7.2.11. Section 37 (2) a of the Planning and Development Act 2000, as amended outlines that: *"Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates"*. The provisions cited under paragraph 37 (2) b include the following:

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

- (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.2.12. I have considered these in turn as follows:

- (i) The proposed development would not in my view be considered of national or strategic importance.
- (ii) I do not consider that there are conflicting objectives within the Seven Strategic Towns Local Area Plan 2018-2024 as they relate to the Local Environment zoning objective pertaining to the site or provisions relating to economic development.
- (iii) I do not consider that this provision applies in the context of the LAP.
- (iv) The pattern of development and permissions granted in Donegal Town since the making of the Seven Strategic Towns LAP do not suggest a predisposition to granting economic development on lands zoned for Local Environment purposes.

Conclusion

7.2.13. In conclusion, I recommend that permission is refused for the proposed development on grounds that the development of the site as a logistics base and repair workshop for a haulage business would materially contravene both (1) the “Local Environment” zoning objective pertaining to the site and (2) Policy GEN-EH-1 of the Seven Strategic Towns Local Area Plan.

7.3. Access and Transportation

7.3.1. Donegal County Council’s 2nd reason for refusal outlines that the proposed development, by reason of existing vision lines at the junction of the access road and L-6695-1 would constitute a traffic hazard. The reason for refusal outlines that the

proposal would materially contravene Policy GEN-ED-5 of the Seven Strategic Towns Local Area Plan in this regard.

- 7.3.2. Policy GEN-ED-5 outlines that economic development can be considered in accordance with a range of criteria including (iv) *'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.'*(v) *"Adequate access arrangements, parking, manoeuvring and servicing areas can be provided in line with the Development and Technical standards set out in the CDP or as otherwise agreed in writing with the Planning Authority";* These criteria as set out within GEN-ED-5 of the LAP are reflected within Policy ED-P-4 of the County Donegal Development Plan 2024-2030.
- 7.3.3. Access to the development is proposed via the existing private road off the L-6695 located to the north of the site. The road currently serves existing commercial development in the vicinity of the site. The application site boundary extends to include an extent of the road in the vicinity of the site.
- 7.3.4. The planning authority's decision raises concern in relation to visibility at the junction of the private access road with the L 6695. The L-6695 operates within a speed limit of 60km in the vicinity of the site. Policy GEN-ED-5 of the LAP and ED-P-4 of the CDDP outline that access parking and servicing should be provided in accordance with the technical standards of the CDDP. The Technical Standards set out within Table 16.7 of the County Donegal Development Plan 2024-2030 outline that stopping sight distances of 90m are required on roads which operate within the 60 km/ph speed limit. From review of the application drawings and on-site inspection it is evident that this sightlines of 90m are not achievable at the junction of the estate road with the L6695.
- 7.3.5. Concerns in relation to the proposed access arrangements to the site and traffic impact of the proposal are raised within the submissions on the application and the observations on the appeal. I refer to the Road's Report prepared in respect of the application which recommends a request for further information in respect of the following:
- The existing vision lines to the South, at the junction where the private road meets the public road is not in compliance with the requirements of the CDP.

There is a concern if this development goes ahead that slower moving HGV's leaving the site and trying to negotiate this junction will result in safety issues for motorists travelling north bound on the public road (L-6695-1).

- The vision lines also need to be detailed at the proposed entrance to make sure the proposed entrance gate and associated wall/fencing is not impeding the vision line at this location.

7.3.6. I share the concerns by the planning authority in respect of visibility at the junction of the private access road and the L-6695. These points are not addressed by the applicant within the 1st party appeal. The first party appeal outlines that there are no restrictions on access to the site and outlines that the estate road serves existing commercial development within the vicinity. No details in relation to visibility splays or auto track movements are submitted in support of the appeal. No improvements are proposed to the existing junction in order to address the planning authority's concerns. In this regard I do not consider that the applicant has addressed the planning authority's second reason for refusal.

7.3.7. I do not consider that the applicant has demonstrated that the existing road network can accommodate traffic movements associated with the proposal (i.e. vehicles carrying long trailers for the transportation of turbines). The applicant has failed to demonstrate compliance with the requisite technical requirements as set out within Chapter 16 of the County Donegal Development Plan 2024-2030.

7.3.8. On an overall basis, I consider that there are significant information deficiencies within the submitted application in respect of the operation of the proposed development and associated potential traffic impact. I refer to the completed Traffic and Transport Statement submitted in conjunction with the application which identifies minimal traffic movements associated with the development (10 no. cars and 10 no. HGV vehicles). I consider that traffic movements associated with the proposal are underestimated and I note that the proposed layout does not include staff parking. The issue of consent for access from the industrial estate road is also raised within the observations on the appeal and within the PA's road report.

7.3.9. I note the reference within Donegal County Council's notification of decision to refuse permission for the development to material contravention of GEN-ED-5 of the Seven Strategic Towns Local Area Plan. However, having regard to the specific wording of

Policy GEN-ED-5 which permits deviation from the technical standards subject to agreement with the Planning Authority I consider that the reference to material contravention is misplaced in this instance. For the reasons cited earlier in this assessment, I consider that the proposal is contrary Policy GEN-ED-5 and recommend that permission is refused for the development on this basis.

- 7.3.10. I furthermore have given consideration as to whether a reference to the technical standards within the County Donegal Development Plan 2024-2030 would constitute a new issue within the context of the decision. In this regard, I note that the County Donegal Development Plan 2024-2030 was adopted and came into force after the planning authority's decision. The application was assessed by the Planning Authority in accordance with the provisions of the 2018-2024 County Donegal Development Plan. In this regard I do not consider that a new issue arises as the technical standards in relation to stopping sight distances as set out within the 2024-2030 County Donegal Development Plan reflect those within the 2018-2024 Plan.

Conclusion

- 7.3.11. On the basis of the information set out within the application and appeal, I am not satisfied that the existing road network in the vicinity of the site has the capacity to accommodate the nature of development proposed or that appropriate visibility splays can be provided in accordance with the technical standards of the County Donegal Development Plan 2024-2030 at the junction of the access road and the L 6695 Rarooney Road. I recommend that permission is refused for the development on grounds of traffic hazard broadly in accordance with Donegal County Council's second reason for refusal.

7.4. Impact on Residential Amenity and Local Environment

- 7.4.1. Donegal County Council's 3rd reason for refusal outlines that the proposed development would materially contravene Policy GEN-ED-5 of the Seven Strategic Towns Local Area Plan 2018-2024 and be contrary to the proper planning and sustainable development of the area having regard to the scale and nature of the proposed development and in particular proximity to residential properties and Donegal Craft Village, to the volume of excavation works proposed and to an absence of detail relating to potential impacts from noise, emissions, surface water

runoff or any measures to mitigate against same in the submitted application, the proposed development does not comply with the requirements of policy provision.

- 7.4.2. Policy GEN-ED-5 of the LAP outlines that economic development can be considered in accordance with a range of criteria as detailed below:

“It is a policy of the Council (Policy GEN-ED-5, Seven Strategic Towns Local Area Plan 2018- 2024 (as varied)) to permit economic development where inter alia,

(i) The proposed development is compatible with surrounding land uses existing or approved;

(ii) The proposed development would not harm the amenities of nearby residents.

(iii) There is existing or programmed capacity in the water and wastewater infrastructure or suitable developer-led improvements can be identified and delivered;

(vi) The proposed development would not create a noise nuisance.

(vii) Any emissions from the proposed development can be dealt with in accordance with relevant standards;

(viii) The proposed development would not adversely affect important features of the built heritage or natural heritage including Natura 2000 sites;

(ix) The proposed development is not located in an area at flood risk and/or will not cause or exacerbate flooding;

(x) The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;

(xi) Appropriate boundary treatments and means of enclosure are provided and any proposed areas of outside storage are adequately screened from public view;

(xii) The proposed development would not compromise water quality nor conflict with the programme of measures contained within the current North Western River Basin (NWIRBD) Management Plan.

- 7.4.3. These criteria as set out within GEN-ED-5 of the LAP are reflected within Policy ED-P-4 of the County Donegal Development Plan 2024-2030.
- 7.4.4. I have considered the proposal in light of the criteria set out within Policy GEN-ED-5 of the LAP. On an overall basis, I consider that there are significant information deficiencies within the submitted application in respect of the nature and operation of the proposed development its compatibility with existing and proposed development and its potential impact on adjoining residential amenity and the local environment. I refer to the numerous submissions on the planning application and the observations on the appeal which raise concern in relation to the potential impact of the development on the residential amenity of the area. The appeal site is adjoining by existing residential properties to the south of the site including detached dwellings and “The Grange” residential development. The concerns raised relate to noise impact, light pollution, loss of amenity space and traffic hazard. I have considered access and transportation relation matters earlier in Section 7.3 of this assessment. In relation to noise impact, I consider that there are information deficiencies within the application in relation to the overall operation of the facility and potential noise impact.
- 7.4.5. The observations on the appeal raise concern in relation to the potential impact of the development on the local environment including the removal of existing mature trees on site. The observations refer to the visual contribution of the trees to the area and outlines that these may be used as roosts to accommodate bats and birds. The first party appeal outlines that trees are proposed to be retained however the Site Layout Map Drawing no.: DH-PL-003 illustrates their removal. I am not satisfied that sufficient landscaping or boundary treatment details are provided within the application in accordance with the requirements of Policy GEN-ED-5.
- 7.4.6. DCC furthermore raise concern in relation to information deficiencies within the application in relation to surface water run-off, the proposed levels of excavation, interface of the development with existing and permitted development in the area and potential impact of the development on downstream flood risk. These points area not addressed within the application or the first party appeal. On the basis of the information provided within the planning application, I am not satisfied that the proposed development as submitted provides a sufficient design solution for the purposes of surface water management and attenuation and in the absence of such

detail, I consider that the proposed development would be contrary to the proper planning and sustainable development of the area

- 7.4.7. In addition to the above I do not consider that the applicant has provided sufficient detail within the application in relation to the specific nature of operations to be undertaken within the maintenance workshop, associated oils/fuels and the management of same.
- 7.4.8. On the basis of the information set out within the application and appeal I am not satisfied that the applicant has adequately demonstrated that the proposed development would not impact on the residential amenity and the local environment. I recommend that permission is refused for the development on this basis.
- 7.4.9. I note the reference to material contravention of Policy GEN-ED-5 within DCC's 3rd reason for refusal. While I consider that there are information deficiencies within the application in relation to aspects of the proposal, I do not recommend a refusal of permission on grounds of material contravention of the Policy GEN-ED-5. I consider that the applicant has failed to demonstrate compliance with the requirements of Policy GEN-ED-5 and I recommend that permission is refused for the development on this basis.

8.0 AA Screening (New Issue)

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.
- 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 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.

Proposed Development

- 8.5. The development is described at Section 2 of this Report. In summary the proposal comprises the construction of a commercial building consisting of offices and repair/maintenance workshop for vehicles in connection with logistics/ haulage business.

Submissions and Observations

- 8.6. The planner's report which informs the decision of Donegal County Council to grant permission for the development outlines that the report outlines that Donegal Bay SAC is located c.480m away and while significant adverse impacts are considered to be unlikely the planning authority cannot carry out a thorough AA Screening in the absence of drainage proposals and details of construction methodology (on the basis of excavation works).

European Sites

- 8.7. The subject site is not located within a designated European site. The closest Natura 2000 site to the appeal site is the Donegal Bay (Murvagh) SAC (Site Code 000133) – 0.39 km and Donegal Bay SPA (Site Code 004151) – 0.42 km. The following provides a summary of the Qualifying Interests of the SAC and SPA.

European Site (Code)	Qualifying Interests	Distance	Connections	Considered further in Screening
Donegal Bay (Murvagh) SAC (Site Code 000133)	Mudflats and sandflats not covered by seawater at low tide [1140] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	0.39 km	Yes.	Yes

	Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170] Humid dune slacks [2190] Phoca vitulina (Harbour Seal) [1365]			
Donegal Bay SPA (Site Code 004151)	Great Northern Diver (<i>Gavia immer</i>) [A003] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Common Scoter (<i>Melanitta nigra</i>) [A065] Sanderling (<i>Calidris alba</i>) [A144] Wetland and Waterbirds [A999]	0.42 km	Yes	Yes

- 8.8. There are no watercourses on or within the immediate vicinity of the site as identified EPA mapping (<https://gis.epa.ie/EPAMaps>). The nearest watercourse is the Lurganboy river located to the c. 360m to the south of the site. This watercourse flows in a western direction to Donegal Bay. The application drawings illustrate the location of a drainage ditch along the northern site boundary.

Identification of likely effects

- 8.9. I consider that potential impacts associated with the development relate to potential deterioration of water quality as a result of potential for run off of contaminated surface water run-off from site, run off from the hardstanding area and repair/maintenance workshop at operational stage and potential for contamination of

groundwater at construction and operational phase of the development. There is potential therefore for contaminated run off /effluent from the appeal site, for example arising during construction (increased sediment load) or operation (run off of oils fuels associated with maintenance workshop to ground) to make its way to the SAC/SPA, with the potential for adverse effects on water quality and water quality dependent habitats and species. Given the location of the site in an existing urban area, the potential for disturbance effects is not likely.

- 8.10. As noted earlier in this assessment, there are information deficiencies within the application in relation to surface water proposals and proposals for any runoff associated with the proposed maintenance workshop. Whilst the site is removed from Donegal Bay and again dilution, settlement and dissipation effects are likely to apply, in the absence of further information there is a risk of deleterious effects to water quality and a risk of downstream effects on water quality in the European sites.
- 8.11. In the absence of mitigation measures, it is possible that construction work and operational activities could give rise to increased sediment load on and run off to local drainage ditches and watercourses which discharge towards or to the designated SAC/SPA. Water quality is important to a number of the qualifying interests of the Donegal Bay SAC and SPA. A reduction in water quality has the potential to affect the aquatic habitats and natural conditions that are required to maintain or achieve the specific attributes and targets of the qualifying interests associated with the SAC and SPA.
- 8.12. Having regard to the effect of dissipation, dilution and biodegradation, of potential pollutants in their movement through soil/water at a distance of over c.400m, significant adverse effects on water quality in the European sites are unlikely. Notwithstanding this, there is a risk of effects that cannot be excluded by way of preliminary examination or in the absence of mitigation.

Cumulative Impacts

- 8.13. On the basis of the information provided within the application and appeal, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of designated sites.

Mitigation Measures

- 8.14. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Planning Authority Screening Determination

- 8.15. Donegal County Council's Screening Determination outlines that Donegal Bay SAC is located c.480m away and while significant adverse impacts are considered to be unlikely the planning authority cannot carry out a thorough AA Screening in the absence of drainage proposals and details of construction methodology (on the basis of excavation works).

Screening Determination

- 8.16. On the basis of the information provided with the application and appeal and in the absence of further information in respect of the arrangements for the disposal of surface water, treatment on potential on site emissions (oils/fuels) and in the absence of a Natura Impact Statement (which refers to mitigation measures during construction and operation), the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site Nos. 000133 and 004151, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.
- 8.17. This is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

9.0 Recommendation

I recommend that planning permission is refused in accordance with the following reasons and considerations.

10.0 Reasons and Considerations

1. The appeal site is zoned for "Local Environment" purposes within the Seven Strategic Towns Local Area Plan 2018-2024 (as varied) with an objective "*To provide for limited one- off housing and small-scale economic development so as to ensure the continued settlement pattern and sequential and transitional*

development of the towns through to rural areas". Policy GEN-EH-1 of the LAP seeks to consider limited home based or tourism based economic development proposals on lands zoned for 'Local Environment' purposes. On the basis of the information set out within the application and appeal, the Board is not satisfied that the proposed haulage business would constitute a "limited" or "small scale" economic development as provided for under the Local Environment zoning objective pertaining to the site or Policy GEN-EH-1. Accordingly, to permit the proposed development would materially contravene the Local Environment zoning objective pertaining to the site and Policy GEN-EH-1 of the Seven Strategic Towns Local Area Plan 2018-2024 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.

2. Policy GEN-ED-5 of the Seven Strategic Towns Local Area Plan 2018- 2024 (as varied) seeks to permit economic development in accordance with a range of criteria including: (iv) *'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.'* (v) *"Adequate access arrangements, parking, manoeuvring and servicing areas can be provided in line with the Development and Technical standards set out in the CDP or as otherwise agreed in writing with the Planning Authority."*

On the basis of the information submitted in conjunction with the application and appeal, the Board is not satisfied that visibility splays at the entrance to the site from the L-6695 can be provided in accordance with the technical standards set out within Table 16.7 of the County Donegal Development Plan 2024-2023. In the absence of improvements to the junction the Board is not satisfied that HGV manoeuvres associated with the development at the site entrance and on the local road network would do not endanger public safety by reason of traffic hazard. The proposed development is considered to be contrary to Policy GEN-ED-5 of the Seven Strategic Towns Local Area Plan 2018-2024 (as varied) and the technical standards of the County Donegal Development Plan 2024-2030. The development would therefore be contrary to the proper planning and sustainable development of the area.

3. Policy GEN-ED- 5 of the Seven Strategic Towns Local Area Plan 2018-2024 (as varied) seeks to permit economic development subject to compliance with a range of criteria including (i) *The proposed development is compatible with surrounding land uses existing or approved;* (ii) *The proposed development would not harm the amenities of nearby residents* (vi) *The proposed development would not create a noise nuisance* (vii) *Any emissions from the proposed development can be dealt with in accordance with relevant standards;* (x) *The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;*

On the basis of the information submitted with the application and appeal, and having regard to the characteristics of the proposal, the Board is not satisfied that the proposed development would not detrimentally impact on the amenity of properties in the vicinity of the development by reason of noise impact and increased HGV movements and associated disruption. It is furthermore considered that insufficient information has been submitted to enable the Board to comprehensively evaluate the likely impact of the proposed development on the locality and the wider environment in terms of the nature and operation of the proposal, noise impact, emissions, site levels and surface water run-off. The proposed development is therefore considered to be contrary to the requirements of Policy GEN-ED- 5 of the Seven Strategic Towns LAP 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

22nd of January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	319705-24		
Proposed Development Summary	a commercial building consisting of offices and repair/maintenance workshop for vehicles in connection with logistics/ haulage business		
Development Address	Lurganboy, Donegal Town, 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 √	Tick if relevant and proceed to Q2.
		No	Tick if relevant. 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)?			
Yes	√	Class 10 (b) (iv) – Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required

No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	Class 10 (b) (iv) –10 hectares in the case of other parts of a built-up area – 1.67 ha.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	√	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP- 319705-24
Proposed Development Summary	commercial building consisting of offices and repair/ maintenance workshop for vehicles in connection with logistics/ haulage business
Development Address	Lurganboy, Donegal Town, Co. Donegal
<p>The Board carried 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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The development relates to construction of a commercial building consisting of offices and repair/ maintenance workshop for vehicles in connection with logistics/ haulage business on a site of 1.67 ha. The size of the development is well below mandatory EIA thresholds.</p> <p>There are information deficiencies within the application in relation to surface water and run off associated with the maintenance workshop. No significant waste, emissions or pollutants are envisaged.</p> <p>Local impacts on residential amenity, the local environment and on the local road network are envisaged having regard to the nature of the development as cited within the reasons for refusal. Such potential impacts are not considered exceptional from an environmental perspective.</p>
<p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites,</p>	<p>The site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area. Section 8 of the report includes an AA Screening.</p>

densely populated areas, landscapes, sites of historic, cultural or archaeological significance).		
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Local impacts on residential amenity, the local environment and on the local road network are envisaged having regard to the nature of the development as cited within the reasons for refusal. Such potential impacts are not considered exceptional from an environmental perspective. Other developments in the wider area are not considered to give rise to significant cumulative effects.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____ **Date:** _____
DP/ADP: _____ **Date:** _____
(only where Schedule 7A information or EIAR required)

Appendix 3 – Details of Extension of Lifetime of Seven Strategic Towns Local Area Plan 2018-2024



Planning and Development Act 2000 (As Amended),

Seven Strategic Towns Local Area Plan 2018-2024

-Proposed Extension Of The Effectiveness Of-

Notice is hereby given in relation to the above-noted Plan that at the Plenary Council meeting of 24th July, 2023 the Members of Donegal County Council resolved to defer the sending of a notice under Section 20(3)(a)(i) and the publication of a notice under Section 20(3)(a)(ii) of the Planning and Development Act 2000 (As Amended) for a further period of 2 years after the elapse of the period of five years from the making of the current Plan. The practical effects of this Resolution are to defer the formal procedures associated with the publication for public consultation of a new Draft Plan until no later than July 2025 with the current Plan remaining in effect until the replacement Plan is adopted.

A copy of this notice of the Resolution can be viewed at www.donegalcoco.ie/sevenstrategictownslocalareaplan and may be inspected at the library facilities in the County during their respective normal opening hours, and during normal office hours, Monday to Friday (9.00am to 12.30pm and 1.00pm to 4.30 pm) from Friday 4th August, 2023 at the following Council offices:

- Reception, Donegal County Council, County House, Lifford.
- Letterkenny Public Services Centre, Neil T. Blaney Road, Letterkenny.
- Milford Public Services Centre, Main St., Milford.
- An Clochán Liath (Dungloe) Public Services Centre, Gweedore Road, Dungloe.
- Carndonagh Public Services Centre, Malin Road, Carndonagh.
- Donegal Public Services Centre, Drumlonagher, Donegal Town.

Liam Ward,
Director of Community Development and Planning Services,
County House,
Lifford,
County Donegal.
F93Y622