



## Inspector's Report

**PL-500619-DL-26**

<b>Development</b>	Change of use and part retention and completion of existing commercial unit to facilitate a commercial vehicle roadworthiness test centre and all ancillary works.
<b>Location</b>	Tonyhaboc, Newtowncunningham, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	2561919
<b>Applicant(s)</b>	David Mc Dermott
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Grant Retention with Conditions
<b>Type of Appeal</b>	Third Party Normal Planning Appeal
<b>Appellant(s)</b>	Michael Doherty
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> March 2026
<b>Inspector</b>	Terence McLellan

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## 1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Tonyhabhoc, approximately 2km to the north-east of Newtowncunningham, County Donegal. The site measures c.1.390 hectares and is proximate to the junction of the L-8141 local road and the N13 National Primary Road which sits immediately to the south of the site. Access to the site is from the L-8141 local road.
- 1.2. With the exception of the subject site, the surrounding area is mainly rural in character, with several one-off dwellings. The site comprises two commercial buildings, a smaller older building fronting onto the L-8141 and a larger newer building located to the northeastern end of the site, which is the subject of the appeal. The site is characterised by large areas of hardstanding in addition to gravelled access ways and hardcore surfaces.
- 1.3. The subject building comprises six bays, each with a front and rear roller shutter door. From my site inspection construction works appear to be complete and the commercial vehicle roadworthiness test centre (CVRT) is operating out of the two bays on the eastern end of the building, with the remaining bays appearing to be in use for vehicle repair.
- 1.4. The site is bounded to the east, north and west by agricultural land and to the south by the N13. There is a log cabin style dwelling located on land outwith but surrounded by the subject site, the use and planning status of which is unclear. The closest dwelling is c. 65m to the west. Site boundaries comprise a mature hedge and tree line along the N13, hedgerow boundary to the east, post and wire fence to the west and an open boundary to the north.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for a change of use and part retention and completion of an existing commercial unit to facilitate a Commercial Vehicle Roadworthiness Test (CVRT) Centre, and all ancillary works. The extension comprises an additional c. 6.6m wide bay on the eastern end of the building with a reception / office and customer waiting room area annexed to the side, and a relatively minor extension to an existing annex on the western side of the building to provide additional office space and ESB /

plant rooms. The extension sought for retention has a total area of c. 285sq.m, bringing the building to a total floor area of c. 1,525q.m.

- 2.2. The applicant also proposes to increase the capacity of an existing septic tank from a holding capacity of 3,500 litres to 7,000 litres and an associated increase in the percolation area from 108 linear metres to 180 linear metres, within the same location as the existing septic tank and percolation area.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. Planning permission was granted by Donegal County Council by Order dated 11<sup>th</sup> December, subject to 15 generally standard conditions. Conditions of note include:

##### Condition 14

- a) A wastewater treatment system (Independently certified by IAB, BSI or ISO EN) suitable for a population equivalent of 10 no. persons shall be installed, operated and maintained in strict accordance with the supplier's instructions and the 2021 Environmental Protection Agency Code of Practice, "Wastewater Treatment and Disposal Systems Serving Single Houses."
- b) A secondary packaged waste water treatment system shall be installed in accordance with The 2021 Environmental Protection Agency Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ), meeting the standards of SR 66 & IS EN 12566 Part 3 and suitable for a population equivalent (PE) 6 no. persons, and must be installed, operated and maintained in strict accordance with the supplier's instructions.
- c) The secondary treatment plant shall be anchored as per manufacturer instructions for sites with high water tables.
- d) The wastewater shall be conveyed from the development to the secondary packaged wastewater treatment system via pipework measuring 100 – 10mm in diameter and shall achieve a minimum fall of 1:40 to 1:60 depending on the material used, as per requirements of Table 7.3 of the Code of Practice.

- e) Tertiary treatment shall be provided by a packaged filter system (packaged media filter) for tertiary treatment, meeting the standards of SR 66 & IS EN 12566 Part 3 and suitable for a population equivalent (PE) 6 no. persons. The packaged filter system must be installed, operated and maintained in strict accordance with the supplier's instructions.
- f) The final wastewater from the packaged filter system (tertiary wastewater treatment unit) shall discharge to a 300 mm deep gravel distribution area (pea gravel, 12-32mm) which shall be sized in accordance with Option 6 of Table 10.1. Chapter 10 of the Code of Practice. In this instance the gravel distribution area shall be no less than 90m<sup>2</sup>.
- g) There shall be a minimum subsoil depth of unsaturated material beneath the gravel distribution layer and the bedrock/water table. In this instance that required depth will be 0.9m.
- h) The wastewater treatment system shall be routinely inspected and maintained in accordance with Chapter 12 of the Code of Practice.
- i) Rainwater, surface water and run-off from paved areas must not be discharged to the secondary wastewater treatment system.
- j) Grey water (from washing machines, bath, showers etc.) shall be directed to the secondary wastewater system.
- k) The secondary packaged wastewater treatment system shall be at least 7m from the proposed dwelling (or any adjacent dwelling).
- l) No part of the percolation area/polishing filter shall be within:
- 10m of any dwelling/ neighbouring infiltration treatment areas
  - 3m of the boundary of the adjoining site
  - 4m of the nearest road boundary
  - 40m from the down gradient domestic well
  - 10m of the nearest stream or ditch
  - 3m of the nearest trees

- 5m of any surface water soakaway which if located on the site, shall be located down-gradient of the percolation area.

- m) Documentary evidence detailing a five-year maintenance contract between the applicant/owners and the suppliers of the wastewater treatment system shall be forwarded to the Planning Authority upon its installation. The wastewater treatment system shall be operated and maintained in accordance with Chapter 12 of the Code of Practice.
- n) All parts of this condition shall be complied with in full prior to first operation of the facility hereby permitted.

**Reason:** In the interests of public health.

### 3.2. Planning Authority Reports

3.2.1. The Planner's Report contains the following points of note:

- The principle of development is considered acceptable given that the development is already granted and established on site. The extension would be minor.
- The development would improve the local economy by increasing the number of employed staff and would not have any further detrimental effect to the existing rural character.
- No response from Uisce Éireann is noted but it is considered that the development has been assessed under 22/51914, and it is not envisaged that the extension would place further strain on the existing systems.
- Adequate access and parking are provided. The road network can handle the additional traffic that would be generated.
- A Road Safety Report was submitted with the parent application/permission detailing 215m visibility splays at the junction of the road serving the site and the N13. It noted that a right turning lane and associated road markings and signage are already in place at this junction.
- The junction serves an existing permitted HGV and commercial vehicle facility and so the existing road network is already accommodating HGV and

commercial traffic. The proposal is not a new facility but rather an extension to an existing facility.

- No amenity issues are anticipated. The site is well screened from the road and from public view. It is not within a flood zone or any Natura 2000 site.
- Design is considered acceptable.
- A letter of consent has been provided from the adjoining landowner granting the Applicant permission to access land to upgrade and maintain the septic tank and percolation area.
- A Site Suitability Assessment was carried out, the results of the site assessment indicated that the ground is suitable to accommodate a septic tank system. The proposal to increase the size of the septic tank and percolation area is considered acceptable and will be conditioned accordingly.

### 3.3. Other Technical Reports

- 3.3.1. **Chief Fire Officer (19.11.2025):** No objection, a Fire Safety Regularisation Certificate will be required.
- 3.3.2. **National Road Design Office (21.11.2025):** The proposal does not affect the progression of any current national road or active travel project managed by Donegal NRO. To maintain scope for any potential National Road improvements, National Road setback should be ensured.
- 3.3.3. **Roads Design (05.12.2025):** No objection, the Applicant is required to ensure that all items conditioned under Planning Permission Reference 23/51365 have been implemented at the development site.

### 3.4. Prescribed Bodies

- 3.4.1. **Transport Infrastructure Ireland (TII) (14.11.2025):** TII will rely on the Planning Authority to abide by official policy in relation to development on/affecting national roads as outlined in the DoECLG Spatial Planning and National Roads Guidelines and requests that the Council has regard to the provisions of Chapter 3 of the guidelines in the assessment and determination of the subject planning application.

3.4.2. The Planning Authority also consulted An Taisce; The Heritage Council; The Department Housing, Local Government and Heritage; and Uisce Éireann. No response was received.

### 3.5. **Third Party Observations**

3.5.1. One submission was received from Michael Doherty (the Appellant). I am satisfied that the matters raised are consistent with the grounds of appeal, which are set out in detail in Section 7 below.

## 4.0 **Planning History**

### *Subject Site*

4.1. **Planning Authority Reference 22/51914:** Permission was granted in 2023 for the construction of a commercial unit (1,173sq.m) for the repair of all commercial vehicles as an extension to existing facility, with connection to existing septic tank and percolation area. This is the parent permission.

4.2. **Planning Authority Reference 23/51365:** Permission was granted in 2023 the re-orientation of the commercial unit granted under Ref. 22/51914 and the construction of an extension (100sq.m) to same.

4.3. **ACP Ref 322909/Planning Authority Reference 25/60690:** Permission was refused by the Commission in October 2025 for a change of use and part retention and completion of existing commercial unit to facilitate a commercial vehicle roadworthiness test centre and all ancillary works. Permission was refused for the following reasons:

1. Submitted documentation refers to a proposal to increase the capacity of an existing septic tank and percolation area. The submitted site layout plan shows that the septic tank and percolation area is located outside the application red line boundary and therefore the upgrade of same is not included as part of the application for permission. Furthermore, on the basis of the submissions made in connection with the planning application and the appeal, the Commission is not satisfied that the land on which the existing septic tank and percolation area is located is in the ownership or control of the applicant, and therefore, the Commission is

not satisfied that the applicant has sufficient legal estate or interest in the land on which the septic tank is located to enable the applicant to continue the use of the septic tank or carry out the proposed upgrade works to same.

2. Policy WW-P-2 of the County Donegal Development Plan 2024-2030 seeks to ensure that new developments do not have an adverse impact on water quality including surface and ground water and that new developments do not hinder the achievement of, and are not contrary to, relevant EU and national plans including the objectives of the EU Water Framework Directive. Policy WW-P-5 requires that commercial developments, where they are to be maintained in single ownership with a projected PE>10, shall provide effluent treatment by means of an independent wastewater treatment system which complies with the Environmental Protection Agency's 'Treatment systems for Small Communities, Business, Leisure Centres and Hotels' manual or any subsequent or updated relevant code of practice. Having regard to the information on file, the Commission is not satisfied that the applicant has demonstrated that the arrangements provided for dealing with wastewater disposal from the development are adequate to cater satisfactorily for the development, that the development would not contribute to surface or groundwater pollution at this location or that it would not be prejudicial to public health and would not cause pollution, that would hinder the achievement of, and are not contrary to, the objectives of the EU Water Framework Directive, or to policies WW-P-2 and WW-P-5 of the County Donegal Development Plan 2024-2030. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

#### *Neighbouring Sites*

- 4.4. None of relevance.

## **5.0 Policy Context**

### **5.1. Donegal County Development Plan 2024-2030**

- 5.1.1. The Donegal County Development Plan 2024-2030 (CDP) took effect on the 26<sup>th</sup> June 2024. A Draft Ministerial Direction was issued on the 26<sup>th</sup> June 2024 relating to zoning objectives within Buncrana and Ballybofey/Stranorlar, amendments to a number of Settlement Framework boundaries, and Policy T-P-12 which relates to new or intensification of accesses onto a national primary road. These parts of the plan will not take effect until such time as a final direction has been issued from the Minister.
- 5.1.2. The subject site is located in a rural area immediately adjacent to the N13 National Primary Road. The location is designated as being an Area of High Scenic Amenity and sits within the viewing corridor of preserved views from Greenan Mountain which is located to the north-east.
- 5.1.3. The following are the relevant policies and objectives contained under Chapter 7 (Economic Development), Chapter 8 (Infrastructure) and Chapter 11 (Natural, Built & Archaeological Heritage) of the CDP:
- 5.1.4. Chapter 7 of the CDP relates to economic development, with a strategic objective to promote and build on the economic strengths and assets of the County as a competitive, innovative and attractive place for a range of sectors to locate and grow, based on the advantages of a robust economic base that is highly appealing to investors and employees. Relevant policies and objectives include
- **ED-P-7:** Consider proposals for the expansion or re-development of an existing economic development in the countryside provided the scale and nature of the resultant development will contribute positively to the long-term sustainability of the existing enterprise, subject to compliance with all relevant provisions of Policy ED-P-10. A proposal which would not meet these criteria will only be permitted in exceptional circumstances where it can be demonstrated that: The proposal would provide for consolidation and/or remediation of the existing facilities:
    - a) Where relocation of the enterprise would not be possible;
    - b) The proposal would make a significant contribution to the local economy;
    - c) The development would maintain the existing rural character of the area;  
and
    - d) Where infrastructural improvements are required that a developer-led solution can be identified and delivered.

- **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, manoeuvring and servicing areas are provided in line with the development and technical standards set out in this plan or as otherwise agreed in writing with the planning authority;
  - g) It does not create a noise nuisance;
  - h) It is capable of dealing satisfactorily with any emission(s);
  - i) It does not adversely affect important features of the built heritage or natural heritage including natura 2000 sites;
  - j) It is not located in an area at flood risk and/or will not cause or exacerbate flooding;
  - k) The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;
  - l) Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;
  - m) In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape;

- n) It does not compromise water quality nor conflict with the programme of measures contained within the current north-western river basin management plan.
- **ED-P-10:** To consider commercial developments, excluding traditional High Street uses that would generate regular customer trips (e.g. retail, consumer services, café/restaurant, public house etc.), on the periphery of settlements where:
  - a) such uses would be incompatible with, and detrimental to, the centres of such settlements by virtue of their inherent 'bad neighbour' characteristics, inclusive of the generation of industrial-scale vehicle trips that would be detrimental to the amenities of the centre; and/or
  - b) the extent of land required for the effective functioning of such an enterprise in the centres would be prohibitive.

All such proposals shall also be considered against other relevant policies of the Plan including, inter alia, traffic and pedestrian safety and public health. Convenience and comparison retailing will not be supported in such cases, and proposals shall be considered against the Retail Planning Guidelines and Policy RS-P-3 (sequential test) and RS-P-4 (retail impact assessment) where retailing is proposed. Exceptions to the general presumption against retail development may be considered in the case of developments where the sale of vehicles is the predominant use.

5.1.5. Chapter 8 relates to infrastructure and contains relating to the transport and road network, water quality and wastewater, and flooding. Objectives and policies of relevance include:

- **Objective T-O-10:** To safeguard the carrying capacity and safety of:
  - i. National Roads and associated junctions in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities (DECLG, 2012) and
  - ii. The R238 Bridgend to Buncrana Regional Road.
- **Policy T-P-15A:** It is a policy of the Council for developments affecting the national road network to require the provision of Traffic and Transport

Assessments in accordance with the requirements of the 'TII Traffic & Transport Assessment Guidelines (2014)' (refer to 'Requirement for Safety Audit', Chapter 16, 'Technical Standards').

- **Policy WW-P-2:** Ensure that new developments:
  - a) do not have an adverse impact on surface and ground water quality, drinking water supplies, Bathing Waters and aquatic ecology (including Water dependent qualifying interests within Natura 2000 sites); and
  - b) do not hinder the achievement of, and are not contrary to:
    - i. The objectives of the EU Water Framework Directive.
    - ii. EU Habitats and Bird Directives.
    - iii. The associated Programme of Measures in the River Basin Management Plan 2022-2027 including any associated Water Protection or Restoration Programmes.
    - iv. Drinking Water Safety Plan.
    - v. The Guidelines on the Protection of Fisheries During Construction Works In and Adjacent To Waters (IFI, 2016)
- **Policy WW-P-5:** In areas with no public wastewater infrastructure, or where there is inadequate public wastewater treatment capacity or networks, larger developments (including commercial, retail, tourism and community developments) where they are to be maintained in single ownership with a projected PE>10 shall provide effluent treatment by means of an independent wastewater treatment system which comply with the EPA's Treatment systems for Small Communities, Business, Leisure Centres and Hotels manual or any subsequent or updated relevant code of practice. Where limited public wastewater infrastructure may be available, prior to the submissions of any planning application such developments shall be required to submit a pre-connection enquiry to Uisce Eireann to assess the feasibility of connecting to the public wastewater system.

5.1.6. Chapter 11 sets out the County's policies regarding natural, built and archaeological heritage. Objectives of relevance include:

- **Policy L-P-2:** 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.
- **Objective L-O-1:** To protect, manage and conserve the character, quality and value of the Donegal landscape.
- **Policy L-P-7:** To preserve the views and prospects of special amenity value and interest as identified on Map 11.1.

## 5.2. National Policy

### National Planning Framework First Revision (April 2025)

- 5.2.1. National Strategic Outcome 2 - Enhanced Regional Accessibility: It is an objective to maintain the strategic capacity and safety of the national roads network including planning for future capacity enhancements.

## 5.3. Regional Policy

### Northern and Western Regional Assembly - Regional Spatial and Economic Strategy (RSES) 2020

- 5.3.1. Regional Policy Objective RPO 6.5: The capacity and safety of the region's land transport networks will be managed and enhanced to ensure their optimal use, thus giving effect to National Strategic Outcome 2 and maintaining the strategic capacity and safety of the national roads network including planning for future capacity enhancements.

## 5.4. Ministerial Guidelines

- 5.4.1. **Spatial Planning and National Roads Guidelines for Planning Authorities (January 2012)**

- 5.4.2. The guidance contains information with regards to required development plan policy on access to national roads where the objective is to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 km per hour apply. It is noted that even in circumstances where direct access is not required

to the network, the national road network may be adversely affected as a consequence of the volume of traffic to be generated.

## 5.5. Natural Heritage Designations

5.5.1. The site is not located within or immediately adjacent to any European Sites. The closest European Sites are:

- Lough Swilly SPA (Site Code: 004075), c. 250m west of the site
- Lough Swilly SAC (Site Code 002287), c. 2.2km northwest of the site
- The Lough Swilly Including Big Isle, Blanket Nook & Inch Lake pNHA (Site Code: 000166) is located c. 150m west of the site.

## 6.0 EIA Screening

6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. A Third-Party appeal was received from Michael Doherty on the following grounds:

#### Planning History

- The previous refusal by An Coimisiún Pleanála remains fully applicable.

#### Traffic and Transport

- The TTA is invalid and misleading. Surveys were undertaken on inappropriate days (Tuesday and Saturday) and does not meet TII requirements.
- The TTA refers to the previously withdrawn application.
- No qualified traffic engineer is identified.

- There is no assessment of the N13/R237 junction, and the proposal would result in HGV movements close to a national primary road with a history of speeding and restricted visibility.
- No turning movement counts, queue or delay modelling, or collision risk assessment has been provided.
- Sightlines are not achievable and require work on Third Party land.

#### Drainage and Wastewater

- Wastewater, environmental and hydrogeological risks remain unresolved.
- Wastewater proposals are inadequate and do not comply with policy (WW-P-2 and WW-P-5). The wrong EPA guidance was used, invalidating WWT design.
- No engineering documentation has been provided, including percolation test results, trench layout design, flow projections etc. It cannot be determined if the system is safe, compliant, capable, or appropriate for commercial wastewater loadings.
- Condition 14 seeks to redesign the wastewater system after permission has been granted. This matter cannot be deferred to a condition.

#### Appropriate Assessment and Ecology

- Appropriate Assessment and Water Framework Directive Assessments were not carried out.
- The site is hydrologically connected to the Lough Swilly SAC/SPA.
- There is no ecological assessment.

#### Procedural Matters

- The Planning Authority conducted no technical assessments or referrals.
- The facility continues to operate without planning permission. The RSA requires that CVRT operators have planning permission. It is a material contravention of planning legislation, disregards regulatory authority and sets a concerning precedent.

- There is no assessment of the impact of the development on residential amenity (noise, lighting, HGV movements, disturbance, visual impact).
- There could be impacts on natural heritage and biodiversity. Hedgerows and trees may be affected by sightline works.
- Conditions cannot cure fundamental defects. The Council are relying on conditions to address wastewater, sightlines, produce engineering documents, prepare environmental assessments, and to comply with policy after permission is granted.

## 7.2. Applicant Response in the case of a 3<sup>rd</sup> Party Appeal

7.2.1. A First party response has been received from Harley Planning Consultants, for and on behalf of David McDermott, the Applicant. The response can be summarised as follows:

### Previous Refusal

- The proposal is similar to that previously refused by the commission save for matters to address the reasons for refusal including legal interests in the land containing the septic tank and suitability of the site to treat wastewater. These are the only legitimate grounds of appeal.
- Letters of consent have been provided giving permission to enter the land and carry out upgrade works on the septic tank and percolation area.
- Sufficient evidence has now been provided of consent to enter lands and carry out works, addressing one of the Commission's previous reasons for refusal.

### Wastewater, Environmental, and Hydrogeological Risks

- In addressing the Commission's second reason for refusal, a Site Suitability Assessment Report (SSAR), with desk and field study, was submitted.
- The SSAR was carried out by a suitability qualified and experienced consultant, assisted by other suitably qualified and experienced technicians.
- The SSAR concludes that effluent can be adequately treated through discharge to ground via a septic tank and percolation area as per EPA guidance.

- There would therefore be no threat to groundwater or the qualifying interests of any European Site.

#### Traffic and Transport

- Despite making reference to the earlier application, the TTA, its content, findings and conclusions remain valid as they relate to the same development.
- TII deferred to the Planning Authority and relevant policy and guidance, subject to compliance with National Roads Guidelines. TII have no objection on road traffic grounds.
- The application was referred to the NRDO who raised no objection.
- The Commission's Inspector on the previous appeal concluded that the development would be unlikely to cause a road or traffic hazard as a result of additional trip generation associated with the proposal. The Commission has therefore already examined and agreed with its Inspector in relation to traffic safety.
- Sightlines proposed on the current application are similar to those presented on the previous appeal. The Commission's Inspector was satisfied with the sightlines.
- Consent has been given by adjoining landowners for the Applicant to achieve and maintain sightlines.

#### Appropriate Assessment

- The Planning Authority carried out an AA Screening which is attached to the Planner's Report. The Planning Authority concluded that the development would not have a significant effect on the Lough Swilly SPA and SAC and that Appropriate Assessment was not required.
- The Commission's previous concerns stemmed from the previous Site Suitability Assessment Report (dating from 2022) and consideration that the application lacked sufficient detail regarding the proposed septic tank upgrade/replacement and lack of drawings/details or clear compliance with the EPA Guidance – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels Manual.

- Previous concerns are addressed by the comprehensive and up-to-date SSAR on the upgrades septic tank and percolation area, concluding that the treatment/disposal of effluent would not have any adverse impact on groundwater or any European site.

### Procedural Matters

- Concerns regarding the Planning Authority's assessment is a matter for the Planning Authority to respond to.
- The Planning Authority carried out AA Screening and sought reports from relevant external organisations and internal departments. It is reasonable to conclude that the PA carried out technical assessment and took into account relevant technical assessment reports from external and internal organisations.
- Unauthorised development is not a matter for the Commission. The Applicant is entitled to apply for retention permission.

### **7.3. Planning Authority Response**

- 7.3.1. The Planning Authority note the contents of the Third-Party appeal and consider that the matters raised have previously been addressed in the Planner's Report.

### **7.4. Observations**

- 7.4.1. None.

## **8.0 Assessment**

- 8.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues to be considered in this appeal are as follows:

- Planning History and Principle of Development
- Traffic and Transport
- Amenity

- Wastewater Treatment
- Procedural Matters

## 8.2. **Planning History and Principle of Development**

- 8.2.1. The Appellant argues that the Commission's previous reasons for refusal remain fully applicable to the site. It is also argued that the facility continues to operate without planning permission. The subject appeal is identical to that previously considered by the Commission in terms of the overall proposal, noting that specific information has been submitted to address the reasons for refusal. The Commission previously refused permission in relation to wastewater treatment matters which the current application and appeal seek to address. I will consider these matters in more detail in the relevant section below. On the matter of the continued operation of the facility in the absence of planning permission, I would note that permission for retention has been sought and that this forms the basis of the current appeal.
- 8.2.2. I also note that the Appellant submits that the proposal is a material contravention of planning legislation as a result of the ongoing operation of the development without planning permission and in the context of a previous refusal of permission from the Commission. I disagree, the Applicant is seeking to regularise the breach of planning control through the current application/appeal, and to address the previous reasons for refusal, this is common, reasonable and provided for in the planning legal code.
- 8.2.3. Furthermore, having regard to the parent permission, Policy ED-P-7 allows consideration of the expansion of an existing economic development in the countryside subject to compliance with the relevant provisions of Policy ED-P-9. I will address ED-P-9 in the relevant sections of the report.

## 8.3. **Traffic and Transport**

- 8.3.1. The grounds of appeal argue that the TTA is misleading as surveys were undertaken on inappropriate days which do not meet TII guidelines and that it refers to the previous application. The Appellant contends that there is no assessment of the N13/R237 junction, no assessment of turning movements, queue/delay modelling or collision risk. It is the position of the Appellant that sightlines are not achievable and will require work on Third Party land.

- 8.3.2. The Applicant acknowledges that the TTA is from the earlier application but argues that its content, findings and conclusions remain valid as they relate to the same development. The Applicant submits that the Commission have already addressed transport matters, having agreed with the Inspector on the previous appeal in relation to traffic safety, trip generation, and sightlines. It is further submitted that neither TII nor the National Roads Design Office objected to the proposal.
- 8.3.3. Policy ED-P-9, parts (e) and (f), also relate to road safety, access and parking, with the following criteria to be met:
- 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
  - Adequate access arrangements, parking, manoeuvring 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.
- 8.3.4. A Traffic and Transport Assessment (TTA) has been submitted with the application and appeal. I note that this is the same TTA as the previous appeal scheme. Given that the transport characteristics of the development remain unchanged, I have no objection to the submission of this document.
- 8.3.5. The TTA considers the road network and junction layout around the site. This includes
- N13 – comprises a 2-lane single carriageway with a verge on both sides and widening at the junction with L-8141 to accommodate a right turning lane.
  - L-8141 – comprises a 2-lane single carriageway predominantly bounded by hedgerow on both sides.
- 8.3.6. For the avoidance of doubt, I do not consider that the junction of the N13 and the R237 needs to be assessed as stated by the Appellant. A traffic survey/traffic count has been completed on the N13, which includes turning movements to and from the L-8141 which is where the access to the site is located. The TTA considers the access/egress arrangements for the proposal, in addition to internal movements and overall trip generation. I am satisfied that it is a suitably robust document and I have no concerns

regarding the survey days employed which relate to a Thursday and not a Tuesday/Saturday as referred to by the Appellant.

- 8.3.7. The estimated trip generation for the new commercial unit equates to 16 two-way car movements and 6 two-way HGV movements per day, with a peak of 8 two-way car movements and 1 HGV movement per hour, which equates to 11 two-way pcu movements per hour.
- 8.3.8. The trip generation of the of the existing commercial unit is given as 8 two-way car movements and 16 two-way HGV movements per day and a peak of 4 two-way car movements and 2 HGV movements per hour, which equates to 8 two-way pcu movements per hour.
- 8.3.9. Traffic flow figures indicate that the N13/L8141 T-junction operates well below operating capacity, with no queueing. Having regard to the traffic counts submitted with the TTA as well as the existing and proposed trip generation, I am of the view that the development would not have any demonstrable adverse impact on the local or national road network.
- 8.3.10. In terms of the requirement to provide 70m visibility splays I disagree with the Appellants view that this would rely on the removal of hedges. The 70m visibility line is shown on the drawing as being provided for the entrance to the site where traffic would be one way accessing the site. No egress would be provided from this point and as such the 70m visibility splay is immaterial. The exit from the site would also be one way onto the L-8141. This would be located on the inside curve of the local road where extensive and unimpeded visibility is available. I have no concerns with regards to the provision of adequate visibility splays. In any event, the Applicant has consent from the adjoining landowner to trim hedges to maintain the visibility splays.

#### 8.4. **Amenity**

- 8.4.1. It is raised by the Appellant that there is no assessment of the development on the residential amenity of the area in terms of noise, lighting, HGV movements, disturbance, and visual impact. It is also argued that there would be impacts on natural heritage and biodiversity, with hedgerows and trees potentially being affected by sightline works.

- 8.4.2. Policy ED-P-9 lists 14 no. criteria that a proposal for an economic development use must meet. Criteria of specific relevance to the amenity issues raised by the Appellant includes (a) compatibility with surrounding land uses, (b) consideration of scenic amenity, (c) protection of residential amenity, (g) noise, (k) layout and design, (i) boundary treatment, and (m) integration into the landscape.
- 8.4.3. The parent permission establishes the majority of the development on the site, including the large commercial building to the north-east of the existing commercial building fronting the local road. The parent permission is therefore a material consideration that carries significant weight. The nearest dwellings are located a significant distance to the west of the site. The part of the building that retention permission is sought for is located on the eastern edge of the building. It will not be visible from any of the surrounding dwellings and will not have any impact on visual amenity. Furthermore, the site is well screened from the N13, and I have no visual amenity concerns from this aspect.
- 8.4.4. Lighting would be as permitted and as such there would be no intensification of any impact in this regard. There would be some uplift in trip generation to the site as a result of the proposed use. However, the uplift would not be significant. The parent permission is for the use the building for the repair of Heavy Goods Vehicles (HGVs), also known as Heavy Commercial Vehicles (HCVs). In my mind the current proposal is not significantly different in terms of its characteristics. I do not consider that the development would result in any significant amenity impacts as a result of noise, HGV movements, or general disturbance having regard to the current proposal, the terms of the parent permission and the screening/separation distance to the nearest dwellings.

## 8.5. **Wastewater Treatment**

- 8.5.1. The Commission's previous refusal related to the proposed septic tank wastewater treatment system which the Applicant seeks to upgrade as part of the development. The Commission's concerns were twofold. Firstly, it was noted that the septic tank/percolation upgrades were in an area outside of the red line plan, on land that was not within the Applicant's control. On that basis it was considered that the upgrade was not part of the application for permission and that the Applicant did not have sufficient legal interest to use the septic tank or carry out the upgrade works. Secondly,

it was not considered that the Applicant demonstrated adequate arrangements for dealing with wastewater disposal, noting that there were concerns regarding the Site Suitability Assessment, which was that submitted with the 2022 parent permission, which the Commission considered to be substandard as it did not include a site plan indicating the location of trial holes or photos trial holes, contrary to the EPA Code of Practice. Concerns were also raised regarding the lack of plans and specifications of the septic tank and percolation area upgrades.

- 8.5.2. The Appellant submits that the wastewater, environmental and hydrogeological risks remain unresolved and that there is still a lack of relevant documentation such that it cannot be determined that the proposed system is capable or appropriate for commercial wastewater loadings. The Appellant maintains that the proposal would not comply with WW-P-2 and WW-P-5 of the CDP and raises concerns with Condition 14 which they argue seeks to redesign the wastewater system after permission has been granted.
- 8.5.3. The Applicant submits that letters of consent have been provided giving permission to enter the land and carry out upgrade works on the septic tank and percolation area and it is noted that the area in question is now within the red line plan. The Applicant further submits that a Site Suitability Assessment Report (SSAR), with desk and field study has been submitted to address the Commission's previous concerns. It is stated that the SSAR was carried out by a suitability qualified and experienced consultant and that it demonstrates that effluent can be adequately treated through discharge to ground via a septic tank and percolation area as per EPA guidance.
- 8.5.4. Policy WW-P-2 seeks to ensure that new developments do not have an adverse impact on water quality including in relation to surface and ground water, drinking water, Water Framework Directive and EU Habitats and Bird Directives. For unsewered / rural areas, CDP Policy WW-P-5 requires that commercial developments, where they are to be maintained in single ownership with a projected PE>10, shall provide effluent treatment by means of an independent wastewater treatment system in compliance with the EPA's Treatment Systems for Small Communities, Business, Leisure Centres and Hotels manual or any subsequent or updated relevant code of practice.

- 8.5.5. Firstly, I am of the view that the Applicant has fully addressed the Commission's previous first reason for refusal. I am satisfied that the location of the septic tank and percolation area upgrade is now within the red line plan and that appropriate consent has been provided from the landowner such that the Applicant now has sufficient legal interest.
- 8.5.6. In terms of the capacity of the proposed septic tank upgrade, I note that the existing septic tank has a capacity of 3,500 litres and a percolation area of 108 linear metres and that the proposed upgrade would increase the septic tank to 7,000 litres with a percolation area of 180 linear metres, catering to a population equivalent of 20, accounting for the fact that the overall development would accommodate approximately 10 staff and 10 customers. I am satisfied that the proposed septic tank and percolation area are of a sufficient capacity to serve the development. Whilst an upgrade is required to cater for the development and the proposed use, in many respects the proposed upgrade is oversized, having regard to the daily flow and BOD figures set out for industrial uses in Table 3 of the EPA's Wastewater Treatment Manuals - Treatment Systems for Small Communities, Business, Leisure Centres and Hotels. However, this is a matter for the Applicant and is not a reason in and of itself to withhold permission.
- 8.5.7. In seeking to address the Commission's second reason for refusal, the Applicant has submitted a new Site Suitability Assessment Report (SSAR). No further details of the septic tank and percolation area are provided in terms of survey plans, levels and cross sections. Although photos and the location of the trial hole and percolation test holes are not included in the SSAR, photos and locations are shown on the site layout plan. On the face of it, this addresses some of the previous concerns. However, I maintain significant reservations regarding the SSAR, which in my opinion is deficient and poor quality.
- 8.5.8. The trial hole photo is poor, and the depth of the trial hole cannot be verified. Typically, this would be achieved by placing a measuring stick in the trial hole and shown on the photo. The SSAR notes that the water table was encountered at 1.9m, however, there is no evidence of water in the trial hole photo. It isn't clear if the photo was taken when excavated or after the relevant waiting period at the time of inspection as the photo is not date and time stamped as required in the Code of Practice.

8.5.9. More importantly, the SSAR states that the invert level would be 0.85m below ground. This is important in the context of the percolation tests, which may be completed at the subsurface (T-test) and the surface (P-test). In the case of the current appeal, the subsurface test was completed. The EPA Code of Practice states:

*'If the trial hole assessment shows that the site has sufficient depth of suitable unsaturated soil and/or subsoil for a septic tank and percolation area, intermittent filter or soil polishing filter discharging at depth (>400 mm), the subsurface test is used and is carried out below the invert of the percolation pipe or at the basal gravel layer in the case of a sand filter with underlying polishing filter.'*

8.5.10. This means that the subsurface percolation test should have been undertaken below the invert level, which is 0.85m (as stated in the SSAR). The percolation test photos shown on the site layout plan appear to be at, or at least very close, to the surface rather than at 0.85m below ground, no additional details are provided with the photos. Furthermore, the table at Step 1 (Section 3.3(a) of the SSAR) is completely blank. In this respect, the Applicant has provided no details of the depth of the percolation test holes as required, including depth from the ground surface to the top of the hole (A), depth from the ground surface to the base of the hole (B) and depth of the hole itself (B-A). It is therefore impossible to determine if the percolation tests were undertaken in line with the Code of Practice and from the information available to me it would appear that they were not.

8.5.11. The Code of Practice also sets out the minimum unsaturated soil/subsoil depth requirements (Table 6.3 of EPA COP). These depths refer to the minimum depth of unsaturated soil and/or subsoil that is required between the point of infiltration and the bedrock and the water table. For percolation trenches following septic tanks, the minimum depth of unsaturated soil is 1.2m in Groundwater Protection Response area R1, which applies to the subject site. The SSAR states that the depth of unsaturated soil beneath the invert is 0.6m. Clearly this would not comply with the minimum depths stated in the COP. Noting that this may refer to the depth beneath the gravel trench, even accounting for a 0.85m invert level, which is also stated in the SSAR, the minimum depth would not be achieved as there would only be 1.05m between the 0.85m invert and the 1.9m water table.

8.5.12. Overall, I am of the opinion that the SSAR fails to comply with the EPA Code of Practice and from the information contained therein and available on file, I am of the view that the Applicant has not demonstrated that wastewater from the proposed development can be properly treated and as such the proposal would be contrary to Policies WW-P-2 and WW-P-5 of the Donegal County Development Plan.

## 8.6. Procedural Matters

8.6.1. It is stated in the appeal that the Planning Authority conducted no technical assessments or referrals. It is further argued that the conditions relied on by the Planning Authority cannot address the schemes fundamental defects. The Applicant argues that the Planning Authority carried out AA Screening and sought reports from relevant external organisations and internal departments. On that basis the Applicant states that it reasonable to conclude that the Planning Authority carried out a technical assessment and took into account relevant technical responses. It is the Applicant's view that concerns regarding the Planning Authority's assessment is a matter for the Planning Authority to respond to.

8.6.2. It is not a matter for the Commission to address perceived or actual deficiencies in the assessment of the Planning Authority. That being said, I note from the Planner's Report that an assessment of the main issues was undertaken and that external and internal consultations took place, including with Transport Infrastructure Ireland. Whilst it would perhaps have been reasonable for the Planning Authority to consult their internal Environmental Health department, the absence of such a consultation is not a determinative matter in the appeal.

8.6.3. In terms of conditions, I consider that the majority of the conditions applied by the Planning Authority are generally standard. I note that a standard wastewater treatment system condition that has been applied however this is incorrect as it refers to a domestic system, the wrong type of system and the wrong PE equivalent. This could be corrected on any permission issued by the Commission.

8.6.4. I also note that the Appellant submits that the Road Safety Authority (RSA) require that Commercial VRT operators have planning permission. I am not aware of any explicit requirement. In any event, this is a matter for the RSA rather than a planning matter. The Applicant is seeking to regularise the breach of planning control through the

current application/appeal which is reasonable and provided for in the planning legal code.

## 9.0 AA Screening

9.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Lough Swilly SAC and SPA in view of their conservation objectives and it is therefore excluded from further consideration. Appropriate Assessment is not required. This determination is based on:

- The nature and scale of development.
- The use of best practice measures in terms of surface water discharges, such as the use of interceptors.
- The nature of the groundwater pathway, the distance to the SPA/SAC and associated filtration having regard to the underlying soil type and travel time.

## 10.0 Water Framework Directive

10.1. An assessment of the proposed development has been undertaken in accordance with Article 4 of the EU Water Framework Directive (2000/60/EC), as transposed by the European Communities (Water Policy) Regulations 2003, as amended, and with regard to the Eastern/South Eastern River Basin Management Plan 2022–2027. The receiving water environment has been identified and assessed, see Appendix 4.

10.2. Having regard to the nature, scale, and location of the proposed development, and in particular its location within the Lough Swilly Groundwater Body, in addition to the information on file and the deficiencies in the wastewater treatment system and SSAR, I am not satisfied that it can be determined that the development would not give rise to a risk of deterioration in the ecological and/or chemical status of the said water body on a temporary or permanent basis or otherwise jeopardise the water body in reaching its WFD objectives.

## 11.0 Recommendation

11.1. I recommend that the Commission refuse permission for the reasons and considerations set out below.

## 12.0 Reasons and Considerations

1. Having regard to the information on file, including submissions made in connection with the planning application and appeal, and having regard to the Site Suitability Assessment Report, the Commission is not satisfied that adequate arrangements are provided for dealing with effluent disposal from the development and it cannot be assured that the development would not contribute to surface or groundwater pollution, that it would not be prejudicial to public health, and that it would not cause pollution that would hinder the achievement of the objectives of the EU Water Framework Directive, contrary to Policies WW-P-2 and WW-P-5 of the Donegal County Development Plan 2024-2030.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

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Terence McLellan  
Senior Planning Inspector

21<sup>st</sup> April 2026



**Appendix 1: Form 1 EIA Pre-Screening**

<b>Case Reference</b>	PL-500619-26
<b>Proposed Development Summary</b>	Change of use and part retention and completion of existing commercial unit to facilitate a commercial vehicle roadworthiness test centre and all ancillary works.
<b>Development Address</b>	Tonyhabboc, Newtowncunningham, Co. Donegal.
<b>IN ALL CASES CHECK BOX / OR LEAVE BLANK</b>	
<b>1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?</b>	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input type="checkbox"/> No, No further action required.
(For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	

<p><b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b></p>	
<p><input type="checkbox"/> Yes, it is a Class specified in Part 1. <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b></p>	
<p><input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	
<p><b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b></p>	
<p><input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. <b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. <b>EIA is Mandatory. No Screening Required</b></p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p>	<p>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.</p>

<p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	
<p><b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b></p>	
<p>Yes <input type="checkbox"/></p>	
<p>No <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2: Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	PL-500619-DL-26
<b>Proposed Development Summary</b>	Change of use and part retention and completion of existing commercial unit to facilitate a commercial vehicle roadworthiness test centre and all ancillary works.
<b>Development Address</b>	Tonyhabboc, Newtowncunningham, Co. Donegal.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<p><b>Characteristics of proposed development</b></p> <p>(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><b>Briefly comment on the key characteristics of the development, having regard to the criteria listed.</b></p> <p>The development is small scale in the context of the existing permitted development. It does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p> <p>Whilst concerns are raised regarding wastewater/effluent disposal, these would not result in impacts of a scale and nature to warrant an EIAR. Overall, it is not considered that the development</p>

	<p>would result in the production of any significant waste, emissions or pollutants nor would it present a significant risk to human health in the context of the wider environment in terms of EIAR.</p>
<p><b>Location of development</b> (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, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p><b>Briefly comment on the location of the development, having regard to the criteria listed</b></p> <p>The site is not located within or immediately adjacent to any designated site. The proposed development would be connected to a public water supply. Whilst concerns are raised regarding wastewater/effluent disposal, these issues would not result in impacts of a scale and nature to warrant an EIAR and it is not considered that the development would result in the production of any significant waste, emissions or pollutants.</p> <p>Stormwater is discharged to an open drain north of the site via an oil interceptor as permitted.</p> <p>It is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent,</p>	<p><b>Having regard to the characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.</b></p> <p>Having regard to the nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial</p>

nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
<b>There is no real likelihood of significant effects on the environment.</b>	<b>EIA is not required.</b>

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

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

### Appendix 3: AA Screening Determination

<b>Screening for Appropriate Assessment Test for likely significant effects</b>	
<b>Case Reference Number:</b> PL-500619-DL-26	
<b>Step 1: Description of the project and local site characteristics</b>	
<b>Brief description of project</b>	<p>A description of the development is set out in detail in Section 2 of the Inspector’s Report. In summary, permission is sought for a change of use and part retention and completion of existing commercial unit to facilitate a commercial vehicle roadworthiness test centre and all ancillary works.</p>
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>The site is in a rural area and not located within or immediately adjacent to any designated site. The development would be connected to a public water supply. Foul sewage would be dealt with by way of an upgrade to an existing septic tank and percolation area.</p> <p>There are no water courses or other ecological features of note on or adjacent to the site that would connect it directly to European Sites in the wider area.</p> <p>The closest waterbody is a stream c. 240m to the west which is part of a larger stream network in the area that ultimately discharges into Blanket Nook Lough / Outer Swilly Estuary c. 2.1km to the northwest of the site.</p>
<b>Screening report</b>	<p>No screening report submitted. I note that an Ecological Report was submitted as part of the initial application/parent permission on this site (Planning Authority Ref: 22/51914), this was not submitted on the current application, but a copy</p>

	<p>is available on the history file for the previous appeal (ACP Ref. 322909/Planning Authority Ref: 25/60690) which is attached to the current file for the Commission's information.</p> <p>The report concluded that the development would not have any likely significant effects on the Lough Swilly SPA subject to implementation of construction and operational stage mitigation measures.</p> <p>The mitigation measures comprise industry standard controls and best practice and I note that the construction phase is complete. Operational stage mitigation includes the installation of a hydrocarbon / oil interceptor as part of the storm water drainage system which discharges to an open drain.</p> <p>Donegal County Council screened out the need for AA under the parent permission. Compliance with the mitigation measures in the Ecological Report was a conditioned requirement of the permission.</p>
<b>Natura Impact Statement</b>	No.
<b>Relevant submissions</b>	Donegal County Council screened out the need for Appropriate Assessment.
<p>The Appellant submits that the site is hydrologically connected to the Lough Swilly SAC/SPA and that Appropriate Assessment and Water Framework Directive Assessments were not carried out.</p>	
<p><b>Step 2. Identification of relevant European sites using the Source-pathway-receptor model</b></p>	

In my opinion, the most relevant European Sites in relation to the development site include:

European Site (code)	Qualifying interests <sup>1</sup> Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup> Y/N
Lough Swilly SPA (Site Code: 004075)	Wintering water birds (24 no. species). Wetland and waterbirds  Link: <a href="#">Conservation Objectives</a>	c. 250m to the west	Indirect surface and groundwater connections.	Yes.
Lough Swilly SAC (Site Code 002287)	Estuaries, lagoons, salt and molinia meadows, oak woods.  Harbour porpoise and otter.  Link: <a href="#">Conservation Objectives</a>	c.2.2km to the north-west.	Indirect surface and groundwater connections.	Yes.

**Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites**

**AA Screening matrix**

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<p><b>Site 1: Lough Swilly SPA (Site Code: 004075)</b></p> <p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Grey Heron (<i>Ardea cinerea</i>) [A028]</p> <p>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Mallard (<i>Anas platyrhynchos</i>) [A053]</p>	<p><b>Direct:</b> None.</p> <p><b>Indirect</b></p> <p><i>Construction</i> - Risk of surface water runoff from construction reaching sensitive receptors.</p> <p><i>Operational</i> - Risk of untreated foul water via groundwater. Noise and external lighting.</p>	<p>Given the permitted vehicle repair use and the location of the site adjacent to the N13, the proposed use is unlikely to cause significant additional noise or light pollution.</p> <p>Whilst concerns are raised regarding wastewater/effluent disposal, the risk of pollutants from the site reaching the SPA/SAC via groundwater is small overall, given the distance to the SPA/SAC, the generally constrained groundwater pathway and level of filtration that would take place between the site and the SPA/SAC.</p>

<p>Scaup (<i>Aythya marila</i>) [A062]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Coot (<i>Fulica atra</i>) [A125]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Greenshank (<i>Tringa nebularia</i>) [A164]</p> <p>Black-headed Gull</p>		
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<p>(Chroicocephalus ridibundus) [A179]</p> <p>Common Gull (Larus canus) [A182]</p> <p>Common Tern (Sterna hirundo) [A193]</p> <p>Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]</p> <p>Wigeon (Mareca penelope) [A855]</p> <p>Shoveler (Spatula clypeata) [A857]</p> <p>Sandwich Tern (Thalasseus sandvicensis) [A863]</p> <p>Wetland and Waterbirds [A999]</p>		
	<p><b>Likelihood of significant effects from proposed development (alone): No.</b></p>	

	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No.</b>	
	<b>Impacts</b>	<b>Effects</b>
<b>Site 2: Lough Swilly SAC (Site Code 002287)</b>  Estuaries [1130]  Coastal lagoons [1150]  Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]  Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]  Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]  Phocoena phocoena (Harbour Porpoise) [1351]  Lutra lutra (Otter) [1355]	As for Site 1.	As for Site 1.
	<b>Likelihood of significant effects from proposed development (alone): No.</b>	

	<p><b>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No.</b></p>
<p>Surface Water Drainage would remain as permitted and would be discharged to an open drain after passing through an interceptor. The development does not pose any additional risk in this respect, and the interceptor is best practice/standard measure as opposed to mitigation.</p> <p>As noted in the Inspector's Report, the SSAR is deficient and it has not been demonstrated that the proposed septic tank upgrade and percolation area would comply with the EPA COP or be suitable to treat effluent arising from the site. Whilst this could pose a risk to the SPA/SAC, the pathway would be via groundwater. This is an indirect pathway that would be subject to filtration given the overall distance to the SPA, the nature of the underlying soil type and relative travel time. For that reason, and notwithstanding the matters raised in the Inspector's Report and the reason for refusal, I do not consider that the development would result in any likely significant effects on the Lough Swilly SPA or SAC.</p>	
<p><b>Step 4: Conclude if the proposed development could result in likely significant effects on a European site</b></p>	
<p>I conclude that the proposed development (alone) would not result in likely significant effects on either the Lough Swilly SAC or SPA. The proposed development would have no likely significant effect in combination with other plans and projects on any European sites. No further assessment is required for the project. No mitigation measures are required to come to these conclusions.</p>	
<p><b>Screening Determination</b></p> <p><b>Finding of no likely significant effects</b></p>	

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Lough Swilly SAC and SPA in view of their conservation objectives and it is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The nature and scale of development.
- The use of best practice measures in terms of surface water discharges, such as the use of interceptors.
- The nature of the groundwater pathway, the distance to the SPA/SAC and associated filtration having regard to the underlying soil type and travel time.

<b>Appendix 4 – WFD Stage 1: Screening</b>			
<b>Water Framework Directive IMPACT ASSESSMENT STAGE 1: SCREENING</b>			
<b>Step 1: Nature of the Project, the Site and Locality</b>			
<b>Case Ref.</b>	PL-500619-DL-26	<b>Townland, address</b>	Tonyhabboc, Newtowncunningham, Lifford Po, Co. Donegal
<b>Description of project</b>		Change of use and part retention and completion of existing commercial unit to facilitate a commercial vehicle roadworthiness test centre and all ancillary works including an upgrade to an existing septic tank and percolation area.	
<b>Brief site description, relevant to WFD Screening,</b>		<ul style="list-style-type: none"> <li>• Existing commercial site in a rural area.</li> <li>• No watercourse within the boundary of the site.</li> <li>• The closest waterbody is a stream c. 240m to the west (EPA Name: GLAR_010, EPA Code: IE_NW_39G380790). Referring to the EPA mapping tool, the stream is part of a larger stream network in the area, generally flowing in a northwest direction and discharging into Blanket Nook Lough / Outer Swilly Estuary c. 2.1km to the northwest of the site.</li> <li>• The proposed development site is located within the Lough Swilly Catchment and the LeslieHill[Stream]_SC_010 sub-catchment.</li> <li>• The site is located in the Lough Swilly ground waterbody, in an area of moderate groundwater vulnerability.</li> <li>• GSI Mapping shows that the site is underlain by poorly drained soil.</li> </ul>	

<b>Proposed surface water details</b>	Discharge to an open field drain north of the site via an oil interceptor. The open drain appears to run north from the site aligning with a field boundary before connecting into another land drain further north, with that drain connecting to the above mentioned stream that runs north to the Blanket Nook Lough / Outer Swilly Estuary.
<b>Proposed water supply source &amp; available capacity</b>	Mains water supply.
<b>Proposed wastewater treatment system &amp; available capacity, other issues</b>	Upgrade an existing septic tank and percolation area.
<b>Others?</b>	N/A

<b>Step 2: Identification of relevant water bodies and Step 3: S-P-R connection</b>						
<b>Identified water body</b>	<b>Distance to (m)</b>	<b>Water body name(s) (code)</b>	<b>WFD Status</b>	<b>Risk of not achieving WFD Objective e.g.at</b>	<b>Identified pressures on that water body</b>	<b>Pathway linkage to water feature (e.g. surface run-</b>

				risk, review, not at risk		off, drainage, groundwater)
Unnamed Stream	c. 240m to the west of the site	GLAR_010 IE_NW_39G380790	Poor	Review	-	Surface water Groundwater
Blanket Nook Lough	c. 2.1km to the northwest of the site	IE_NW_220_0200	Moderate	Review	-	Surface water Groundwater
Outer Swilly Estuary	c. 2.6km to the northwest of the site	IE_NW_220_0500	High	Not at Risk	-	Surface water Groundwater
Lough Swilly groundwater body, in an area of moderate groundwater vulnerability	N/A	IEGBNI_NW_G_059	Good	Not at Risk	-	Surface water Groundwater

**Step 3: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.**

**CONSTRUCTION PHASE**

No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Construction related contaminants entering ground water and surface water drain.	Unnamed Stream Blanket Nook Lough Outer Swilly Estuary Lough Swilly groundwater body	Existing	Water quality degradation.  Site is underlaid by poorly drained soil indicative of relatively slow percolation of water / pollutants.	Standard construction practices.	No	N/A
<b>OPERATIONAL PHASE</b>							
2.	Untreated surface water entering groundwater and surface water drain.  Untreated foul water entering groundwater and surface water drain.	Unnamed Stream Blanket Nook Lough Outer Swilly Estuary Lough Swilly groundwater body	Existing	Water quality degradation.  Site is underlaid by poorly drained soil indicative of relatively slow percolation of water / pollutants	Installation of an oil interceptor.  Upgrade an existing septic tank and percolation area – inadequate information provided and	Impacts on groundwater cannot be determined on the basis of information submitted with regards the treatment of foul water.	Cannot be determined on the basis of information submitted with regards the treatment of foul water.

					non-compliance with EPA COP.		
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