



An
Coimisiún
Pleanála

Inspector's Report PL-501159-DL-26

Development	Demolition of existing dwelling for the construction of a new building which will incorporate shop, post office, off-licence, forecourt, underground storage tanks and pumps and all other associated site works.
Location	Creelough, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2561833
Applicant(s)	Annette & Danny Martin Lafferty
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Christine Evans Hugh Harper & Others
Observer(s)	Ann Marie Boyle
Date of Site Inspection	6 th July 2026
Inspector	Elaine Power

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1.0 Introduction

- 1.1. This is a third party appeal against the Planning Authority's decision to grant planning permission for the demolition of an existing dwelling and the construction of a petrol station comprising a new building accommodating a shop, post office, off-licence, deli, toilets, staff welfare facilities, ATM and a forecourt, underground storage tanks and pumps, a car wash facility, signage, outdoor laundrette kiosk, outdoor fuel bunker storage area and all other associated site works at Creeslough, Co. Donegal.
- 1.2. The appeal site adjoins and marginally overlaps a former petrol filling station and apartment development which on the 7th of October 2022 experienced a tragic event, when ten people lost their lives and many more were seriously injured. The recent circumstances surrounding the explosion at the adjacent site and the personal experiences of the bereaved families, survivors and community of Creeslough are acknowledged and recognised.
- 1.3. While the very sensitive nature of the case is acknowledged, the non-planning matters raised in the third-party appeals relating to their personal experiences of the recent fatal incident, and the aftermath, are not referenced in this report. However, I have read and considered all written submission received by An Coimisiún Pleanála and all plans and particulars submitted to Donegal County Council as part of the application, all of which are available to view on the appeal file.
- 1.4. It is also noted that this is the second application by the applicant for a similar development. In June 2025, An Coimisiún Pleanála refused permission (ABP-322031-25) for the demolition of an existing building and the construction of a new building incorporating a shop, forecourt, underground storage tanks and pumps and all other associated site development works including a space for a memorial garden. The first reason for refusal considered that the proposed development, by reason of its overall architectural treatment, scale and design, would be out of character with its surroundings, would seriously detract from the architectural character and setting of Creeslough and of the streetscape and approach to Creeslough from Letterkenny generally. The first reason for refusal also considered that the proposed development would be contrary to Policy ED-P-9. The second reason for refusal considered that the proposed memorial was inappropriately sited, in the context of the significant pedestrian and traffic movements, and raised serious concern in relation to both the

safety for those visiting the memorials and also the inappropriate siting of the memorial within the development itself.

2.0 Site Location and Description

- 2.1. The appeal site is located within the settlement boundary of Creeslough. Creeslough is a small and historic rural settlement in northwest Donegal, located c. 25km north of Letterkenny and c. 12km south of Dunfanaghy. The settlement comprises a small village centre with a limited number of services and facilities and a linear pattern of residential and commercial development to the north and south of the village core, fronting onto the N56. The appeal site is located on the western side of the N56, c. 250m south of the village centre.
- 2.2. The appeal site is irregular in shape with a stated area of 0.52ha. It currently accommodates a dormer style house, with associated shed and outbuilding and rear opens space. There is an existing vehicular access onto the N56. The site is gently sloping with a c. 5m difference between the highest point at the site's western boundary and the lowest point, at its eastern boundary with the public road. The sites boundaries generally comprise trees and vegetation with a low boundary wall at the site's eastern boundary with the N56.
- 2.3. To the north the site is bound by a residential dwelling. The southern boundary of the appeal site marginally overlaps with, and is immediately adjacent to, the site of a former petrol filling station and 3-storey apartment development, which was subject to a devastating explosion in October 2022. The site is also bound to the south by a house which forms part of the Birch Hill residential estate and greenfield lands. To the west (rear) the site is bound by greenfield lands. To the east the site is bound by the N56. On the opposite side of the N56 is tourist accommodation Wild Atlantic Glamping site and Homeland Agricultural Co-Operative with associated yard, outdoor storage, and car parking.

3.0 Proposed Development

- 3.1. The proposed development comprises the demolition of an existing house and outbuildings with a total stated area of 194sqm. The construction of a new two-storey building with a gross floor area of 702sqm comprising a shop, post office, off-licence,

store, deli, toilets including accessible toilets, staff welfare facilities, forecourt, underground storage tanks and 6 no. pumps, external canopy, car wash facility, associated signage including totem signage, outdoor laundrette kiosk, outdoor fuel bunker storage, an ATM and all other associated site. The proposed building has a traditional design approach with a pitched roof, with a maximum height of 8.7m. The proposed forecourt is located to the front (east) of the shop. It comprises 6 no. pumps under a canopy. The canopy is 6.7m in height and c. 18m in length by 10m in width.

- 3.2. In response to the request for further information the proposed development includes a controlled pedestrian crossing on the N56 and an uncontrolled pedestrian crossing the sites entrance. The proposed development was re-advertised.

4.0 Planning Authority Decision

4.1. Decision

Permission was granted subject to 17 no. conditions.

Condition 2 and 3 require a Road Safety Audit to be submitted and all recommendations to be implemented in full.

Condition 7 requires a summer (May – August) bat survey to be carried out prior to any demolition or site clearance works.

Condition 13 limits the opening hours to between 07:00 – 23:00 Monday – Sunday.

Condition 14 requires that no vehicles park overnight within the site.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The initial Planners Report dated 9th December 2026 raised no objection to the principle of the development. However, the report notes that no details of the canopy to be erected over the petrol pumps were provided.

Concerns were also raised regarding the proximity of the laundry kiosk and HGV parking to an existing residential property and the potential to negatively impact on

residential amenity from noise and disturbance during the operational hours. The report also notes the recommendations of the Road Design Engineer.

The report recommended that further information be sought with regard to three items. These are summarised below.

1. Details of the proposed canopy structure.
2. A revised site layout plan which provides for the relocation of the proposed laundrette kiosks and HGV Space 2.
3. (a) appropriate facilities for vulnerable road users along the sites frontage.
(b) revised auto-track to allow for a reduced junction radii.
(c) visibility splays in accordance with DMURS.
(d) revised site layout plan which provides for unobstructed forward visibility at the proposed entrance.
(e) proposed raised table crossings are to be constructed as per TII Standard Construction Detail CC-SCD-05145.
(f) installation of storm gullies to ensure no water ponding on the upstream side of any proposed raised tables.
(g) demonstrate that the gradient and the length of the dwell area at the proposed access junction to the major road will be in accordance with TII Publication DN-GEO-03060.
(h) incorporate a permeability link from west to east on the N56.
(i) build-outs to be incorporated at the pedestrian crossing in accordance with TII Standard Construction Detail CC-SCD-05112. Streetscape in accordance with DMURS to be incorporated into the design.
(j) submit a Design Report including Road Stage Audits in accordance with TII Publication DN-GEO-03030
(k) a Road Safety Audit Stage 1 and 2 to be carried out.
(l) confirm crossing types proposed within the development.
(m) submit a revised site layout plan that demonstrates a reduction in the excessive crossing width proposed within the development.

(n) details of public lighting.

The Planning Authority considered that the response to the request for further information, which included the provision of a new pedestrian crossing on a National Road, to be significant and the applicant was requested to readvertise the proposed development. The proposed development was readvertised in March 2026.

The Planners Report dated 23rd March 2026 considered that having regard to the location of the subject site within the settlement framework of Creeslough, outside of, and removed from, any environmentally sensitive designations, to the nature and scale of the development within a brownfield site in the village and the policies of the current development plan that the proposed development would not injure the amenities of the area, would not be prejudicial to public health, would not endanger public safety by reason of a traffic hazard, and would not have any significant adverse impacts on the environment or ecology of the area. The report recommends that permission be granted subject to conditions.

4.2.2. *Other Technical Reports*

Road Design: Report dated 23rd October 2025 notes that the site is located within close proximity to the proposed N56 Cresslough Safe Routes to School NTA Active Travel Project, which is currently at Phase 3 Design. The report sets out a number of recommendations which formed item 3 of the request for further information which is summarised above.

Report dated 20th February 2026 states that the Design Report including Road Stage Audits must be accepted by TII prior to the commencement of construction for the proposed development and that the Road Safety Audit Stage 3 should be carried out when works are substantially complete subject to grant approval.

Chief Fire Officer: Report dated 6th November 2025 states that there is no objection subject to conditions. The report notes that a dangerous substance application is to be submitted and granted prior to commencement of works on site.

Environmental Health Officer: Report dated 19th November 2025 states that given the connection to the existing public sewer the application should be referred to Uisce Eireann.

Area Roads Engineer. Report dated 1st December 2025 states that there is no objection subject to a standard condition.

4.3. Prescribed Bodies

None

4.4. Third Party Observations

Six observations were received by the Planning Authority from Carole Barrett, Aine Flanagan, Christine Evans, Caroline People, Paddy Gallagher, Damien Tansey Solicitors on behalf of Hugh Harper and others. The concerns raised are similar to those outlined in the appeal below and generally relate to safety concerns, premature development, the large scale and nature of the development in a village setting, traffic congestion, residential amenity and psychological impact.

5.0 Relevant Planning History

There are no recent or relevant planning applications relating to the majority of the appeal site. A portion of the southern boundary of the appeal site marginally overlaps with the site of the former petrol filling station and apartment development where a significant explosion occurred on the 7th of October 2022 which resulted in the loss of ten lives and many serious and significant injuries. The applicant is also the owner of this adjacent site. The recent planning history for the adjacent site includes the following:

ABP-322031-25, 24/50106: Permission was refused by An Coimisiún Pleanála in June 2025 following third party appeal against the Planning Authority's decision to grant permission for the demolition of an existing building and the construction of a commercial building incorporating a shop, forecourt and all other associated site development works including a space for a memorial garden. The two reasons for refusal are set out below.

1. Having regard to the existing character and the prevailing pattern of development in Cresslough, it is considered that the proposed development (as amended), by reason of its overall architectural treatment, scale and design, would be out of character with its surroundings, would seriously detract from

the architectural character and setting of Creeslough and of the streetscape and approach to Cresslough from Letterkenny generally. It is considered, therefore, that the proposed development would be contrary to Policy ED-P-9, of the Donegal County Development Plan 2024-2023 being of inappropriate layout and building design in the context of the existing streetscape. To permit the proposed scheme (as amended) at this prominent location could have such a negative effect on the visual amenity and local character of Cresslough as to negatively impact on the wider, long-term regeneration and renewal of the village. The proposed development would, therefore, seriously injure the visual amenities of the area and to the proper planning and sustainable development of the area.

2. Having regard to recent history of the site, it is considered that the proposed memorial consisting of an architectural installation at the vehicular exit to the site, and a separate small green area as a space for a memorial garden adjoining the car park servicing the development, is inappropriately sited in the context of the significant pedestrian and traffic movement that will take place throughout the site when operational, and this raises serious concern in relation to both the safety for those visiting the memorials and also the inappropriate siting of the memorial within the development (as amended) itself. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

6.0 Policy Context

6.1. *County Donegal Development Plan 2024 -2030*

Cresslough is identified as a Rural Settlement within the Core Strategy. The appeal site is located within the settlement framework boundary of Cresslough as identified in Map 21.19.

The vast majority of the site, to the rear of the existing house, is located within a larger parcel of land identified as 'C' on the settlement framework map. This parcel of land is subject to a **Draft Ministerial Direction** which was issued on the 26th of June 2024 to revert the lands to an 'Amenity Area'.

Relevant Policies and Objectives include the following:

Policy CS-P-1: That within the boundaries of settlements identified Settlement Framework boundaries, applications for development will be assessed in the light of all relevant material planning considerations including any identified land use zonings, availability of infrastructure, relevant policies of the Development Plan/Local Area Plan as applicable, other regional and national guidance/policy and relevant environmental designations.

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, 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.

Objective CS-O-7: To support economic growth throughout the County through:

- (c) To continue to support the regeneration, renewal and development of the County's towns and villages over the life of the Plan.

Objective TV-O-5: To ensure quality design proposals for new development within towns and villages in order to contribute to positive place-making.

Chapter 16 sets out Guidance for Petrol Filling Stations as follows:

- Where appropriate a low wall, approximately 0.6m in height, shall be constructed along the road frontage in conjunction with appropriate measures to provide for the adequate enclosure and security of premises outside operating hours.
- A maximum of 2 road access points shall be provided for, which will be designed and constructed in accordance with TII Publications, as appropriate. The applicant shall submit a document demonstrating compliance with TII Publications as part of the planning application.
- No advertising or commercial signage shall obstruct visibility over the site access points or front boundary/wing walls.

A shop of up to 100 square metres net floor area may be allowed when associated with a petrol filling station. Where net retail space in excess of 100 square metres is sought the sequential approach to such development will apply

In order to protect the carrying capacity of strategic routes, new petrol filling stations requiring direct access onto such routes, will not be considered outside the 60kph speed limit. This policy will apply to the strategic road network mapped in the Transportation Chapter.

6.2. **National Planning Framework First Revision, April 2025**

The National Planning Framework is a high-level strategic plan for shaping the future growth and development of the county to 2040. It is a framework to guide public and private investment, to create and promote opportunities for our people, and to protect and enhance our environment - from our villages to our cities, and everything around and in between.

It sets out 10 National Strategic Outcomes (NSO). Of particular relevance is NSO 8: Transition to a Carbon Neutral and Climate Resilient Society which states that adaption measure will be required to respond locally specific, place-based responses, which address not only climate impacts but also integrate coherently with local social, economic and ecological systems. The accelerated delivery of additional renewable electricity generation is therefore essential for Ireland to meet its climate targets, reduce its greenhouse gas emissions, and improve its energy security by reducing reliance on imported fossil fuels and diversifying its electricity supply.

The following National Policy Objectives (NPO) are considered relevant.

NPO 14: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets that can accommodate changing roles and functions, increased residential population and employment activity, enhanced levels of amenity and design and placemaking quality, in order to sustainably influence and support their surrounding area to ensure progress toward national achievement of the UN Sustainable Development Goals.

NPO 20: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

NPO 25: Target the reversal of rural decline in the core of small towns and villages through sustainable targeted measures that address vacant premises and deliver sustainable reuse and regeneration outcomes.

6.3. **Climate Action and Low Carbon Development (Amendment) Act 2021**

This Act amends the Climate Action and Low Carbon Development Act 2015. It sets out the national objective of transitioning to a low carbon, climate resilient and environmentally sustainable economy in the period up to 2050. The Act commits us,

in law, to a move to a climate resilient and climate neutral economy by 2050. An Coimisiún Pleanála is a relevant body for the purposes of the Climate Act. As a result, the obligation of the Commission is to make all decisions in a manner that is consistent with the Climate Act.

6.4. *Climate Action Plan, 2025*

The Climate Action Plan was published in June 2019 by the Department of Communications, Climate Action and Environment. The Climate Action Plan 2025 (CAP25) is the fourth annual update to Ireland's Climate Action Plan 2019. This plan is prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021, and following the introduction, in 2022, of economy-wide carbon budgets and sectoral emissions ceilings. Climate Action Plan 2025 builds upon Climate Action Plan 24 (CAP24) by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with CAP24.

The CAP provides a detailed plan to achieve a 51% reduction in overall greenhouse gas emissions by 2030 and to transition away from fossil fuels in energy systems to achieve net-zero emissions in 2050.

6.5. *Ireland's Long-term Strategy on Greenhouse Gas Emissions Reduction, 2024*

This strategy is an update to the 2023 strategy, and the first to be prepared under Ireland's Climate Action and Low Carbon Development Acts 2015 to 2021. It conforms to both EU and national requirements and is consistent with Climate Action Plan 2024. It provides indicative pathways towards achieving carbon neutrality for Ireland by 2050.

The Strategy covers:

- total greenhouse gas emission reductions and enhancements of removals by sinks.
- emission reductions and enhancements of removals in individual sectors, including electricity, industry, transport, the heating and cooling and buildings sector (residential and tertiary), agriculture, waste and land use, land-use change and forestry (LULUCF).

- expected progress on transition to a low greenhouse gas emission economy, including greenhouse gas intensity, CO2 intensity of gross domestic product, related estimates of long-term investment, and strategies for related research, development and innovation.
- the expected socio-economic effect of the decarbonisation measures, including aspects related to macro-economic and social development, health risks and benefits and environmental protection and
- links to other national long-term objectives, planning and other policies and measures, and investment.

6.6. *Guidelines for Planning Authorities: Retail Planning, 2012*

The Guidelines aim to ensure that the planning system continues to play a key role in supporting competitiveness in the retail sector for the benefit of the consumer in accordance with proper planning and sustainable development.

The Guidelines state that retail development should be appropriate to the scale and function of the settlement. The vitality and viability of city and town centres in all their functions through sequential development is an overarching objective in retail planning. Furthermore, in small towns and villages there should be a clear presumption in favour of central or edge-of-centre locations for new developments and in rural areas retailing should generally be directed to existing settlements.

The guidelines also state that convenience shops are part of the normal ancillary services provided within motor fuel stations. In rural areas, they can have a very important function as the local shop or small supermarket. However, such shops should remain on a scale appropriate to the location, and their development should only be permitted where the shopping element of the station would not seriously undermine the approach to retail development in the development plan. The floorspace of the shop should not exceed 100sqm net, where permission is sought for a floorspace in excess of 100sqm, the sequential approach to retail development shall apply.

5.4 Natural Heritage Designations

The appeal site is not within or immediately adjacent a designated site. The nearest designated site are as follows:

- Sheephaven SAC (001190) and Sheephaven pNHA are located c. 300m east of the appeal site.
- Cloghernagore Bog and Glenveagh National Park SAC (002047), c. 2km east and c. 2.5km south of the appeal site.
- Muckish Mountain SAC (001179), 2.2km west of the appeal site.
- Muckish Mountain pNHA, c. 3.1km west of the appeal site.
- Derryveagh and Glendowan Mountains SPA (004039) c. 4km east and 4km south of the appeal site.

7.0 EIA Screening

7.1. The proposed development has been subject to preliminary examination for environmental impact assessment. I refer the Commission to Appendix 1 and 2 of my assessment. 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.

8.0 The Appeal

8.1. Grounds of Appeal

Two appeals were received from (1) Christine Evans and (2) Damien Tansey Solicitors on behalf of Hugh Harper and others. Both appellants raised serious concerns regarding the exceptional sensitivity of the site and on-going investigations by An Garda Siochana, The Health and Safety Authority and the Commission for Regulation of Utilities relating to the recent disaster at the adjacent site and the psychological impact on survivors, bereaved families and the wider community by introducing a similar development in close proximity to where the tragedy occurred. Many of the very serious concerns raised by the appellants are non-planning issues and cannot be sensitively and adequately addressed within the scope of this planning appeal. I have read and considered the information provide within the appeals. Below is intended as a summary of the main planning grounds raised by the third parties.

Christine Evans

The main planning grounds raised by Christine Evans are summarised below.

Principle of Development

- The proposed development is premature pending a decision on the use of the adjacent site including a potential memorial garde, community use or CPO by Donegal County Council.

Design Approach

- Concerns are raised regarding the nature and scale of the proposed development including the size of the building, the forecourt area and the canopy structure.
- The design is similar to a major roadside service station and is out of character with the village.

Residential Amenity.

- The proposed development would negatively impact on existing residential amenity due to noise and disturbance from traffic movements and commercial activity and increased lighting.

Traffic

- The scale of the development would increase vehicular movements which has the potential to create a traffic hazard and safety concerns.

Safety Concerns

- Given the history of the site there are concerns regarding the storage of fuel and hazardous material.

Damien Tansey Solicitors

The third-party appeal from Damien Tansey Solicitors is on behalf of Hugh Harper, Donna Harper, Anthony Harper, Jamie Harper, Leah Clarke, Marie Ronaghan, Kathryn McDevitt, Amanda Faul and Caroline Peoples, who are bereaved families and survivors of the tragic explosion at the former petrol station on the adjacent site. The main planning grounds of the appeal and the original submission to the Planning Authority, which is attached to the appeal, are summarised below.

Principle of Development.

- The decision of Donegal County Council is premature, fundamentally flawed and procedurally deficient.
- The appeal site directly adjoins the site of the explosion, encompasses land intrinsically connected to the tragedy and is functionally and contextually indistinguishable from the redevelopment of the original site. Relocating the development to the adjacent site is to overcome the previous reason for refusal.
- The proposed development would reintroduce a hazardous commercial development at the location of an unresolved mass casualty event.
- The applicant did not undertake any public engagement prior to lodging the application.
- The proposed development constitutes a disproportionate and unjust interference with the human right to grief with dignity and the right to private and family life as set out in Article 8 of the European Convention on Human Rights.

Safety

- There are concerns regarding an increased risk of major accidents involving the storage of hazardous material.
- Inadequate consultation with prescribed bodies on safety risk.

Traffic

- Concerns regarding a potential traffic hazard and unsuitability of local infrastructure.
- Concerns regarding the deficiency in layout, pedestrian safety and operational design.
- Concerns regarding the capacity of the surrounding road network to accommodate the additional traffic movements, including HGV's (fuel tankers) generated by the proposed development.

- The internal layout presents serious safety concerns, with a complex pattern of vehicle movements around parking areas, fuel pumps and pedestrian crossings resulting in multiple conflict zones.

Design Approach

- Overdevelopment of the site.
- The nature and scape of the proposed development is incompatible with the character and setting of Creeslough.
- The proposed development would give rise to significant noise, light pollution and negatively impact on existing residential amenity.
- Negatively impact on tourism and the amenity of the Wild Atlantic Camps Glamping facility which attracts visitors in search of a tranquil nature orientated environment.

8.2. **Applicant Response**

The Applicant's response to the appeals is summarised below.

Principle of Development

- The applications understand and fully acknowledge the trauma which has been caused to many families as a result of the tragic event.
- The proposed development addresses the previous reasons for refusal.
- The appeal site is within the settlement framework of Creeslough.
- The proposed development would be beneficial to the community. The village of Creeslough is currently served by a temporary modular shop, which is managed by the applicants. There is no fuel available within the village. The closest available fuel is c. 10km from the village.
- The appeal site is not the same site as the site of the explosion. The proposed development would not impact on future plans for the adjacent site.
- This application must be decided upon in a fair and considered manner relating to planning policy as set out in the relevant Act.

Design Approach

- The proposed shop is located a minimum of c. 19m from the nearest dwelling. The ridge height of the building is 8.9m. The building is designed to be functional with a traditional design approach. It would not detract from the visual amenity of the area or the character of Creeslough.
- The size, scale and location of the proposed building is in keeping with the character of the village and would not be injurious to the streetscape.

Traffic

- The Planning Authority considered the traffic impacts to be acceptable.
- The forecourt and parking arrangements within the site allow for turning movements. Auto-track drawings show how traffic movements within the site area achieved.

8.3. Planning Authority (PA) Response

The PA's response addresses both appeals. The response to the appeal from Christine Evans is set out under 6 headings and is summarised below.

Item 1: Failure to properly consider the exceptional sensitivity of the location.

The PA fully acknowledges the tragic events and recognises the trauma that those affected by the events endured. However, the exceptional sensitivity of the site does not fall within the parameters for the assessment of a planning application as set out in Section 34 (2) of the Planning and Development Act (PDA), 2000 (as amended) and therefore could not be taken into consideration.

Item 2: Failure to address prematurity and future use of adjacent lands.

The PA had strict regard to the statutory requirements as defined in the PDA 2000 (as amended) for making a decision on a planning application.

Item 3: Inappropriate scale and overdevelopment

The scale of the development in the context of the site and village was considered during the assessment. The PA does not agree that the development would be excessive. The commercial development would offer local services to the community and visitors to the area, adding to the economic vibrancy of the village.

Item 4: Impact on residential amenity.

The PA does not agree that the proposed development would have a significant adverse effect on residential amenity, particularly given the location within the settlement framework of Creeslough, adjacent to a National Road and proximity to other existing commercial uses. A condition restricting hours was attached to the decision to minimise any potential disturbance to nearby residential properties.

Item 5: Traffic and road safety concerns.

Following recommendations from the Council's Roads Engineering, alterations were made to the access and internal layout to address road safety concerns.

Item 6: Safety concerns and appropriateness of development

The Chief Fire Officer made no objection subject to a Fire Safety Cert being obtained and a dangerous substance application to be submitted and granted prior to commencement of development.

The PA's response to the appeal from Damien Tansey Solicitors on behalf of Hugh Harper and others is summarised below.

- The PA considers that the on-going investigations in relation to the tragic events that took place on the 7th of October 2022 on the adjoining site do not fall within the parameters for the assessment of the planning application as set out in Section 34 (2) of the PDA, 2000 (as amended) and therefore could not be taken into consideration.
- The PA are satisfied that the relevant statutory bodies were consulted on this application.
- Consultation with the community was not required under the Planning and Development Regulations (PDR), 2001 (as amended).
- Reference to Article 8 of the European Convention on Human Rights (ECHR) is noted. The PA is expected to reach a balance between first party rights and third-party rights. The PA is restricted to considering the proper planning and sustainable development of the area.
- The PA note the concerns raised regarding risk of a major accident, inadequate consultation, traffic hazard and unsuitability of local infrastructure,

incompatibility with the residential character of the area and deficiencies in the layout, pedestrian safety and operation design and consider that these grounds were previously addressed in the response.

8.4. **Observations**

An observation was received from Ann Marie Boyle on behalf of the O'Donnell Family. The observation notes that the appeal site encroaches onto the previously refused area and the same concerns remain relevant. It is considered that the proposed development does not adequately address or overcome the previous reasons for refusal.

8.5. **Further Responses**

Two further responses were received from (1) Damien Tansey Solicitors on behalf of Hugh Harper and others and (2) Christine Evans. The relevant planning grounds raised in the submissions are summarised below.

Response from Damien Tansey Solicitors on behalf of Hugh Harper and others

- The appellants are fully supportive of the appeal from Christine Evans.
- The appeal must be considered in the unique and deeply tragic context of the Creeslough explosion.
- Creeslough is a small rural community with a modest population and a distinct residential and community character. The scale, intensity and commercial nature of the proposed development are disproportionate in this context.
- The development would materially alter the character of the area.
- The proposed development would increase vehicular traffic including HGV's (fuel tankers).
- Pedestrian and road safety concerns.
- Negative impact on residential amenity and existing businesses.
- Noise and disturbance.
- Lack of public engagement.

Response from Christine Evans

- The appellant fully supports the appeal submitted by Damien Tansey Solicitors on behalf of bereaved families and survivors.
- The proposed development is premature.
- The site is intrinsically linked to the site of the tragedy.
- Lack of meaningful consultation with bereaved families, survivors and the wider community of Creeslough.
- Serious concerns relating to public safety, hazardous materials, traffic impact, residential amenity and the suitability of a large-scale fuel related development at this location.
- Sites associated with mass fatality events should be treated with exceptional sensitivity, dignity and restraint.
- The proposed development is excessive in scale, inappropriate for the character of the village and wholly unsuitable given the unique and traumatic history associated with this location.

9.0 Assessment

- 9.1. I wish to acknowledge the recent tragedy associated with the adjacent site. I have read all the information on file including the third-party submissions and full consideration has been given to the issues raised. However, many of the serious concerns raised by the appellants are non-planning issues and cannot be sensitively and adequately address within the scope of this planning appeal.
- 9.2. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, the report of the local authority and inspected the site, and having regard to relevant policies and guidance, I consider that the substantive planning issues in this appeal to be considered are as follows:
- Principle of Development.
 - Design Approach.
 - Residential Amenity.

- Transport.
- Climate.
- Other issues.

9.3. In the interest of clarity my assessment relates to the development submitted by way of further information.

9.4. ***Principle of Development***

Zoning

9.4.1. The appeal site is located on a brownfield site, within the settlement boundary of Cresslough, as identified in Map 21.19 of the Development Plan. Chapter 21 of the Development Plan notes that *lands within the settlement boundaries, although not specified as being for a particular use, can be used for a variety of purposes*. Policy CS-P-1 of the Development Plan states that *within the boundaries of settlements identified Settlement Framework boundaries, applications for development will be assessed in the light of all relevant material planning considerations including any identified land use zonings, availability of infrastructure, relevant policies of the Development Plan/Local Area Plan as applicable, other regional and national guidance/policy and relevant environmental designations*.

9.4.2. The majority of the land within the Cresslough settlement boundary is not subject to specific land use zoning objectives and, therefore, a variety of uses are considered to be open for consideration.

9.4.3. A significant portion of the appeal site is located within a larger parcel of land identified as 'C' on the settlement framework map. This 'C' parcel of land is subject to a Draft Ministerial Direction to revert to 'Amenity Area'. The eastern portion of the appeal site, which current accommodates the house is not subject to any restrictions.

9.4.4. It is noted that both the Chief Executives Report and the OPR report on the Draft Ministerial Direction, which are publicly available on the Donegal County Council website (www.donegaldevplan.ie) and which I accessed in July 2026, recommend Amendments to the Draft Ministerial Direction to delete 'C' Amenity Lands from the Cresslough Settlement Framework. However, the Minister has not issued a Final Direction. Therefore, in accordance with Section 31(6) of the Planning and

Development Act 2000 (as amended), the site designation as being within the Settlement Boundary of Cresslough, where a variety of uses are open for consideration, shall cease to have effect pending the issuing of the Minister's Final Direction.

9.4.5. The land use zoning objectives relating to the settlement frameworks are set out in Table 15.2 of the Development Plan. The Objective for lands zoned 'Amenity' is *to reserve and enhance land for formal and informal amenity and open space purposes, and to make provision for new recreation, leisure and community facilities*. Should the Minister's Final Direction revert the 'C' lands to amenity then the proposed development is not compatible with the Amenity Objective.

9.4.6. It is my opinion that the proposed development is premature pending the issuing of the Minister's Final Direction. This issue has not been raised by the applicant, the third parties or the Planning Authority and may be considered a new issue by the Commission.

9.4.7. Notwithstanding my opinion that the proposed development is premature, other issues relating to the proposed development and the appeal site are considered below.

Retail Use

9.4.8. The third parties raised concerns regarding the size of the proposed building. The development description of the proposed development is for a new building with a gross floor area of 702sqm, incorporating *inter alia* a shop, post office, off-licence and deli. Therefore, in my view the proposed retail element of the proposed development is a standalone development and is not ancillary to the petrol station.

9.4.9. Policy RS-P-5 of the Development Plan supports proposals for the provision of local scale neighbourhood shops where such shops are clearly designed and located so as to serve distinct residential neighbourhoods.

9.4.10. The Retail Planning Guidelines (2012) also state that retail development should be appropriate to the scale and function of a settlement and in small towns and villages there should be a clear presumption in favour of central or edge-of-centre locations for new developments and in rural areas retailing should generally be directed to existing settlements.

9.4.11. Creeslough is a small rural settlement. The census (www.CSO.ie) indicates that the Electoral Division of Creeslough, which includes the built-up area of the village and the wider environs, had a population of 783 in 2022. Having regard to the information provided in support of the application and having carried out a site visit it would appear that, since October 2022 when the fatal incident occurred on the adjacent site, there is no permanent shop within the settlement of Creeslough. In response to the appeal the applicant notes that they are currently operating a temporary modular shop in the village and that the nearest permanent shop is c. 10km from Creeslough.

9.4.12. The proposed net retail space is 344sqm, with an additional off licence (20sqm), deli (55sqm) and post office (55sqm). The concerns of the third parties are noted. However, having regard to the sites location within the settlement boundary of Creeslough, c. 250m south of the village centre, to the lack of existing retail facilities within the settlement and the distance to existing convenience retailing it is my view that the proposed retail element is an appropriate scale to support the local needs of Creeslough and its hinterland and that the proposed development would be in accordance with Policy RS-P-5 of the Development Plan and the provisions of the Retail Planning Guidelines.

Policy ED-P-9

9.4.13. Policy ED-P-9 requires any proposal for economic development use to meet a number of criteria. It is noted that the Planning Authority granted permission for the proposed development and no concerns were raised by the Planning Authority or the third parties with regard to compliance with Policy ED-P-9. However, as the previous reason for refusal (ABP-322031-25) for a similar development on the adjacent site considered that the proposed development did not comply with Policy ED-P-9 of the Development Plan it is my opinion that it is appropriate that the proposed development be assessed with regard to Policy ED-P-9. The criteria (a-n) are taken in turn below.

a. It is compatible with surrounding land uses existing or approved.

9.4.14. The development is located on a brownfield site in the settlement boundary of Creeslough. The site is bound to the north by a residential dwelling. The southern boundary of the appeal site partially overlaps with, and is immediately adjacent to, the site of a former Vivo Shell filling station, commercial unit and a 3-storey apartment development which experienced a fatal explosion in October 2022. The site is also

bound to the south by greenfield lands a house. the site is bound to the west (rear) by open fields and to the east by the N56. On the opposite side of the N56 is Homeland Agricultural Co-Operative an Agri-Business with associated yard, external storage areas and car parking and tourist accommodation 'Wild Atlantic Camp' with associated reception, restaurant, café, tennis courts, playground and laundry facility. I am satisfied that the proposed development, which is located within the settlement boundary of Creeslough, is compatible with the with the surrounding land uses.

b. It would not be detrimental to the character of any area designated as being of Especially High Scenic Amenity (EHSA).

- 9.4.15. The appeal site is located within the urban area of Creeslough. It is not located within or immediately adjacent to any sensitive natural habitats, designated sites or landscapes and is not identified as being within an area of especially high scenic amenity. Having regard to the location, nature and scale of the proposed development I am satisfied that 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.

- 9.4.16. The impact of the proposed development on residential amenity is addressed in Section 9.6. I am satisfied that subject to mitigation measures, limiting the hours of operation, lighting and noise, the proposed development does not negatively impact on existing residential amenity.

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.

- 9.4.17. The existing house on site, to be demolished, is currently connected to the public water main and wastewater networks. It is proposed that the development would connect to the public water main and the public sewer. There is no submission on file from Uisce Eireann. The Uisce Eireann capacity registers indicate that there is capacity (green status) within the public water network and that there is no capacity (red status) at Creeslough WWTP. The Uisce Eireann website (www.water.ie) notes that €1.4 million is being invested in improvement works at four wastewater treatment plants in

including Creeslough WWTP. The works include upgrades to inlet works, storm water management and sludge treatment and storage at the plants.

9.4.18. The proposed development includes two toilets. Having regard to the existing house on the site, which is connected to the public network, the limited number of bathrooms proposed, the hours of operation of the facility (07:00 – 23:00) and the planned improvement works to the existing Creeslough WWTP I am satisfied that, on balance, a connection to the public network is reasonable, subject to the agreement of Uisce Eireann.

9.4.19. The proposed development also includes a car wash area. The Storm Drainage Layout Plan states that water from the car wash area would be directed to a drainage channel where it would pass through a car wash silt trap prior to discharge to the storm drainage system. The proposed development includes an attenuation tank at in the eastern portion of the site, under the proposed area of open space. The information submitted states that run off rates from the proposed development would be equivalent to a greenfield site. It is noted that the Planning Authority raised no concerns in this regard.

9.4.20. Overall, I am satisfied that there is capacity to accommodate the proposed development.

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.

9.4.21. The impact of the proposed development on Traffic is addressed in Section 9.7. I am satisfied that the proposed development would have a negligible impact on the capacity of the surrounding road network.

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.

9.4.22. As noted above, I have some concerns regarding the potential for conflict between vehicles and pedestrians in the area to the rear of the proposed building and with

regard to the quantum of car parking proposed. However, I am satisfied that this could be addressed by way of condition.

g. It does not create a noise nuisance.

9.4.23. Noise is addressed in Section 9.6. Overall, I am satisfied that the proposed development would not create a noise nuisance subject to the implementation of mitigation measures including limiting the hour of operation to 07:00 – 23:00, ensuring no long-term parking of HGV vehicles within the site, the provision of the acoustic fence at the site's boundaries with exiting residential properties and appropriate noise monitoring.

h. It is capable of dealing satisfactorily with any emission(s).

9.4.24. Climate is addressed in Section 9.8. The proposed development includes a petrol filling station, which by reason of its primary function of retailing petrol and diesel, does not directly support Ireland's ambitions for net-zero emissions by 2050. However, in my opinion petrol stations continue to be a necessary infrastructure until such a time as ambitions for zero carbon emissions from motor vehicles are realised.

i. It does not adversely affect important features of the built heritage or natural heritage including natura 2000 sites.

9.4.25. There are no protected structures or buildings of architectural merit within or immediately adjacent to the site and the site is not located within or immediately adjacent to any sensitive natural habitats, designated sites, or landscapes. The nearest designated site is Sheephaven SAC (001190) c. 300m east of the appeal site. I refer the Commission to Section 10 below.

l. Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view.

9.4.26. The Site Layout Plan, as submitted by way of further information, indicates that the site northern, southern and western boundaries would generally comprise palisade fencing with screen planting. The information provided does not include any boundary treatment at the site's eastern boundary with the N54. Chapter 16 of the Development Plan states that in respect of petrol filling stations a low wall, c. 0.6m in height shall be constructed along the road frontage in conjunction with appropriate measures to

provide for adequate enclosure and security of the premises outside of operating hours.

9.4.27. I have no objection to the proposed fencing and planting and consider that in combination with the separation distance from the public road that it would provide an appropriate boundary treatment and adequately screen of the proposed development including the outdoor car wash, laundrette kiosk and fuel bunker storage area from adjacent properties. I am also satisfied that the boundary treatment with the N56 could be addressed by way of condition.

m. In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.

9.4.28. The appeal site is not located in the countryside.

n. It does not compromise water quality nor conflict with the programme of measures contained within the current north western river basin management plan.

9.4.29. I am satisfied that the proposed development does not compromise water quality nor conflict with the programme of measures contained within the current north-western river basin management plan. I refer the Commission to Section 11 Water Framework Directive below.

9.4.30. The previous reason for refusal on the adjacent site is noted. However, having regard to the above, I am satisfied that the proposed development is in accordance with Policy ED-P-9 of the Development Plan.

Future Use of Adjacent Site

9.4.31. The third parties raised concerns that the proposed development is premature pending a decision on the use of the adjacent site. The on-going investigations relating to the recent tragic event at the adjacent site are noted. However, at the time of this report the adjacent site is not subject to any designations or specific zoning objective within the Development Plan and is not contained within the 'C' lands identified on Map 21.19. While the extremely sensitive nature of the adjacent site is acknowledged it is not within the remit of this planning appeal to consider appropriate or potential future uses for the adjacent site. The proposed shop and forecourt area are located c. 20m from the appeal site's boundary with the adjacent use and I am satisfied that the

proposed development would not impede any future development or a memorial within the site of the recent tragedy. Therefore, it is my opinion that the proposed development is not premature pending a decision of the future use of the adjacent site.

9.5. *Design Approach*

- 9.5.1. Concerns are raised by the third parties that the nature and scale of the proposed development, including the size of the building, the forecourt area and the canopy structure which results in overdevelopment of the site, is incompatible with the character and setting of Creeslough and would negatively impact on the visual amenities of the area.
- 9.5.2. The proposed development comprises a building with a gross floor area of 702sqm and a forecourt with 6 no. pumps and canopy over, with a separate car wash area and laundry kiosks. The proposed building has a traditional design approach with a pitched roof, with a maximum height of 8.7m. The front elevation of the building has a stone finish while the side and rear elevations are finished in render. The ground floor level accommodates a retail area (344sqm), off-license (20sqm), a post office (55sqm), deli (55sqm) and storage and circulation areas. The first-floor level accommodates staff facilities and an office. The building is located in the western portion of the site, c. 72m from the site's boundary with the N56 (public road).
- 9.5.3. The proposed forecourt is located to the front (east) of the shop. It comprises 6 no. pumps under a canopy. The canopy is 6.7m in height and c. 18m in length by 10m in width. The forecourt canopy is located c. 55m from the public road. The canopy would contain signage on all elevations.
- 9.5.4. The site is gently sloping with a c. 5m difference between the highest point at the site's western boundary and the lowest point at its eastern boundary with the public road. It is proposed to lower the western portion of the site by a maximum of c. 1.4m. The excavation works would result in the finished floor level of the proposed building and forecourt being c. 3m above the level of the N56. The site section indicates that the ridge of the proposed building would be c. 2m higher than the previous building on the adjacent site and c. 1m lower than the ridge of an adjacent house in Birch Hill estate. I have no objection in principle to the lowering of the site to accommodate the proposed development.

- 9.5.5. The Planning Authority granted permission for the proposed development. However, it is noted that An Coimisiún Pleanála overturned the decision of Donegal County Council to grant permission in 2025 (ABP-322031-25) for a development on the adjacent site comprising the demolition of an existing building and the construction of a commercial building (812sqm) incorporating a shop, forecourt and all other associated site development works including a space for a memorial garden on the adjacent site, which is the site of the former Vivo Shell filling station, commercial unit and a 3-storey apartment development which experienced an explosion in October 2022. The first reason for refusal considered that having regard to the existing character and the prevailing pattern of development in Cresslough, the proposed development, by reason of its overall architectural treatment, scale and design, would be out of character with its surroundings, would seriously detract from the architectural character and setting of Cresslough and of the streetscape and approach to Cresslough from Letterkenny generally.
- 9.5.6. The previously refused development on the adjacent site was located at the boundary with the N56 and, therefore, was highly visible from the public road. The building had a contemporary design approach, with a barrel roof and a mix of external finishes including standing seam roof (RAL 7014), Kingspan type architectural wall panelling, locally sourced Muckish natural stone and anthracite grey aluminium windows and doors. To address the reason for refusal the size of the proposed building (702sqm) has been reduced, and the building has a traditional design approach. The proposed development is also set back significantly from the public road, with an area of open (c. 500sqm) provided between the built elements of the development and the sites eastern boundary with the N56.
- 9.5.7. The previous reason for refusal on the adjacent site is acknowledged. However, having regard to the sites location within the settlement boundary of Creeslough and outside of any designated landscape, the surrounding urban context, which includes a variety of building sizes and architectural styles including the Agricultural Co-Operative and tourist accommodation 'Wild Atlantic Camp' on the opposite side of the road, the previous use on the adjacent site, the traditional design approach of the proposed building, the significant set back from the public road and the size of the site (0.52 ha) I am satisfied that while the proposed development would be visible from the N56 it is proportionate to the site and can be absorbed within the wider landscape

without significantly impacting on the visual amenities of the area. It is also my view that petrol filling stations are currently an essential and established use in towns and villages throughout Ireland. Therefore, I have no objection in principle to the scale and design of the proposed building and the forecourt area and canopy structure.

- 9.5.8. The proposed development includes a car wash area and laundry kiosks located at the site's southern boundary with greenfield lands. No elevational details of the car wash area or laundry kiosks have been provided. I have no objection in principle to the provision of a car wash or laundry kiosks and consider them an appropriate use within the site. However, from the information submitted, it is unclear if it is proposed to provide a manual or automated car wash. Given the relatively limited area reserved for the car wash area and the proximity to car parking spaces it is assumed that a manual car wash area is proposed. Should permission be granted it is my view that the final details of the car wash should be agreed by way of condition. It should be noted that this may require the removal of a number of car parking spaces.
- 9.5.9. The proposed layout also provides for an area of open space at the site's boundary with the N56. I have no objection in principle to the provision of open space at this location. However, it is my view that insufficient detail has been submitted regarding the proposed landscaping plans, including proposals for paths, planting, natural play features, seating and boundary treatments. Chapter 16 of the Development Plan states that in respect of petrol filling stations a low wall, c. 0.6m in height shall be constructed along the road frontage in conjunction with appropriate measures to provide for adequate enclosure and security of the premises outside of operating hours. It is my opinion that the final details of the area of open space could be addressed by way of condition.
- 9.5.10. In addition, in response to the request for further information the proposed development includes a pedestrian crossing on the N56 and across the vehicular access to the site. The revised layout did not include any alterations to the area of open space or the location of the totem sign. Therefore, the proposed layout does not provide for the most direct pedestrian link between the proposed pedestrian crossing on the N56 and the proposed building. Again, I am satisfied that this issue could be addressed by way of condition.

9.6. ***Residential Amenity***

- 9.6.1. Concerns are raised by the third parties that the proposed development would give rise to significant noise, light pollution and negatively impact on existing residential amenity.
- 9.6.2. There is an existing dwelling within the Birch Hill residential estate located c. 1m from the site's southern boundary. This house is located c. 20m from the proposed building and c. 55m from the fuel pumps. There is also an existing dwelling located c. 4m north of the site's boundary. This house is located adjacent to the proposed area of open space and c. 25m from the pumps and c. 35m from the proposed building. Having regard to the separation distances and the relatively limited height and commercial nature of the proposed development I am satisfied that it would not result in any negative impact on residential amenity in terms of overlooking, overshadowing or overbearing impact.
- 9.6.3. It is acknowledged that the proposed development would generate additional vehicular movements within the site which would likely result in an increase in noise. However, the proposed development does not include any long-term parking of HGV vehicles or any HGV refuelling facilities. To protect residential amenity the Planning Authority attached a condition that the operating hours be limited to between 07:00 and 23:00. The applicant raised no objection to the proposed hours of operation.
- 9.6.4. Having regard to the proximity of the proposed development to existing residential properties it is my opinion that to further safeguard these properties from undue noise and nuisance that an acoustic fence in accordance with TII publication series ng 300 – fencing and environmental noise barriers should be provided at the site's boundaries with existing residential properties. In addition, during the operational phase of the proposed development noise levels as measured at the nearest noise sensitive receptor (house) shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and (b) 45 dB(A) at all other times. I am satisfied that this could be addressed by way of condition.
- 9.6.5. As noted in Section 9.8 below I have some concerns regarding a potential for conflict between vehicles and pedestrians at the rear of the site. As the proposed development does not include HGV fuel pumps and given the relatively limited size of the site, its proximity to residential properties and the availability of unrestricted on-street parking

on the N56 within the settlement boundary of Creeslough it is my view that, to further safeguard the development from a potential noise source, the area labelled HGV parking within the site, to the side of the proposed building, should be omitted by way of condition.

- 9.6.6. The Lighting Plan submitted by way of further information indicates minor light spill into adjacent properties. Light spill can be minimised by the use of appropriate mitigation measures. It is also considered appropriate that lighting within the site should be in accordance with bat-sensitive lighting guidance. I am satisfied that this concern could be addressed by way of condition.

9.7. **Transport**

- 9.7.1. Concerns are raised by the third parties regarding the capacity of the surrounding road network to accommodate the additional traffic movements, including HGV's (fuel tankers) generated by the proposed development.
- 9.7.2. Access to the site is proposed from a T- junction with the N56 (National Road) with a raised uncontrolled pedestrian crossing on the access road and a new controlled pedestrian crossing on the N56, c. 12m north of the site entrance. The proposed access is within the 50km/hr zone of Creeslough.
- 9.7.3. The N56 provides connectivity between Letterkenny and Dunfanaghy. The Road Access Design Report submitted by way of further information utilised existing traffic counts relating to a separate development in Dunfanaghy and estimates traffic flows on the N56 through Creeslough do not exceed 250 no. vehicles per hour in each direction. The horizontal and vertical alignment of the N56 at the site entrance are relatively straight, with unrestricted visibility sightlines of 100m in both directions.
- 9.7.4. It is noted that prior to the recent disaster there was a petrol filling station with four pumps and a shop on the adjacent site, which likely generated similar vehicular movements on the surrounding road network as the proposed development. Having regard to the available information, I am satisfied that the impact of the proposed development on the capacity on the surrounding road network would be negligible. It is noted that no concerns were raised by the Planning Authority in this regard.

Car Parking

- 9.7.5. The site layout submitted by way of further information includes 34 no. car parking spaces to the front, rear and side of the proposed building and a bus car parking space. Table 16.8 of the Development Plan sets out car parking standards for a variety of uses. With regard to a shop 1 space per 20sqm of publicly accessible space is permissible. The site layout plan as submitted by way of further information indicates that the proposed development has a publicly accessible floor area of 418sqm. Therefore, there is a requirement for 21 no. car parking spaces. Having regard to the scale of Creeslough and the dual uses provided within the site it is my opinion that the proposed level of car parking is excessive.
- 9.7.6. The Development Plan states that a proportion of the spaces to be provided are allocated as charging points for electric vehicles in accordance with best practice. The proposed development includes two electric charge parking spaces. I have no objection to the quantum of EV charging spaces, and it is noted that the Planning Authority raised no concerns in this regard.

Internal Layout

- 9.7.7. Concerns are raised by the third parties that the internal layout presents serious safety concerns, with a complex pattern of vehicle movements around parking areas, fuel pumps and pedestrian crossings resulting in multiple conflict zones.
- 9.7.8. The proposed layout provides for a single access / egress to the site, with an internal access road c. 50m in length. The 6 no. pumps are generally located in the north-central portion of the site. There is a clear one-way system around the pumps with 12 no. additional car parking spaces provided around the pump area. I have no objection to the proposed layout.
- 9.7.9. The car wash area and laundry kiosk area located on the southern portion of the site and separated from the fuel pumps by a pedestrian crossing. This area accommodates 15 no. car parking spaces and there is an additional pedestrian crossing which provides a designated route to the retail element. I have no objection to the layout of this area and consider the level of car parking appropriate for the proposed uses within the site.

- 9.7.10. It is proposed to provide an additional 9 no. car parking spaces, a service area / loading bay and an unrestricted area labelled as 'staff parking' to the rear of the proposed building. A HGV parking space is also proposed to the side of the proposed building.
- 9.7.11. It is my view that the provision of public car parking to the rear of the proposed building, adjacent to the servicing area for the shop and the turn bay for buses and / or HGV's results in a potential for conflict between vehicles and pedestrians. Therefore, it is my view that the 9 no. car parking spaces (spaces 26 -34) should be omitted from the scheme and that the area to the rear of the building should be reserved for serving / deliveries associated with the retail element of the scheme with a limited number of delineated staff car parking spaces. This area should be separated from the public car parking area by a physical barrier.
- 9.7.12. As the proposed development does not include HGV fuel pumps and given the relatively limited size of the site and the availability of on-street parking on the N56 it is my view that the area labelled HGV parking to the side of the proposed building should also be omitted by way of condition. If permission is being contemplated it is also considered appropriate that a condition be attached which prohibits long term parking of HGV vehicles within the site.

Pedestrian Crossing

- 9.7.13. In response to the request for further information the applicant revised the site layout to include a pedestrian crossing at the entrance to the site and across the N56 and the proposed development was readvertised. The crossing is located c. 12m north of the junction on N56 and the site access / egress. As noted above, I have some concerns regarding the location of the crossing and its relationship with the proposed area of open space and the totem signage. Section 4.3.2 of DMURS also recommends that pedestrian crossings be provided at junctions and on each arm of the junction. Therefore, it is my opinion that the crossing on the N56 would be more appropriately located at the junction of the N56 and the proposed access / egress. It is my opinion that this could be addressed by way of condition.

9.8. Climate

- 9.8.1. The Climate Action and Low Carbon Development Act, 2015, as amended, commits Ireland to becoming a carbon-neutral economy by 2050 and reducing Greenhouse Gas (GHG) emissions by 51% by the end of the decade. Section 17 of the Climate

Action and Low Carbon Development (Amendment) Act, 2021 amends the principal act such that Section 15(1) requires a relevant body shall, in so far as practicable, perform its functions in a manner consistent with relevant climate related plans and strategies including the most recent approved climate action plan (CAP), being CAP 24 and CAP 25. The purpose of the CAP is to lay out a roadmap to deliver on Ireland's climate ambition of 51% reduction in GHG emissions from 2021-2030 and net-zero emissions by 2050. The proposed development would extend the hours of operation of an existing petrol filling station.

- 9.8.2. The proposed development comprises the construction of a petrol filling station, which by reason of its primary function of retailing petrol and diesel, does not directly support Ireland's ambitions for net-zero emissions by 2050. However, in my opinion petrol stations continue to be a necessary infrastructure until such a time as ambitions for zero carbon emissions from motor vehicles are realised, within both the new and second-hand car market.
- 9.8.3. The application also includes the provision of 2 no. car spaces with electric vehicle charging points which is a positive step in respect of climate change, future proofing the service station as fossil-fuel dependent vehicles are phased out.

9.9. Other Issues

Safety Concerns

- 9.9.1. The third parties raised concerns regarding the storage of fuel and hazardous material within the site. The storage and handling of flammable liquids and fuels for sale or supply to the public are matters dealt with under the Dangerous Substance (Flammable Liquids and Fuel Retail Stores) Regulations 2019. The Dangerous Substances Act (1972) states that petrol filling stations are regulated by the Chief Fire Officer. The report of the Chief Fire Office raised no objection in principle to the proposed development and noted that the applicant is required to submit a dangerous substance application and that this must be granted prior to commencement of works on site.
- 9.9.2. The recent history of the adjacent site is noted. However, Section 7.8 of the Development Management Guidelines (2007) states that it is *inappropriate in development management to deal with matters which are the subject of other controls*.

Furthermore, the existence of a planning condition, or its omission, will not free a developer from their responsibilities under other codes and it is entirely wrong to use the development management process to attempt to force a developer to apply for other some licence, approval, consent, etc. As the storage of fuel and hazardous material is dealt with under other codes it is my opinion that a condition in this regard is not warranted in this instance.

Human Rights

9.9.3. The third parties consider that the proposed development constitutes a disproportionate and unjust interference with the human right to grief with dignity and the right to private and family life as set out in Article 8 of the European Convention on Human Rights (ECHR).

9.9.4. ECHR - Article 8 - Right to respect for private and family life:

- 1. Everyone has the right to respect for his private and family life, his home and his correspondence.*
- 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

9.9.5. An Coimisiún Pleanála is Ireland's national planning body which operates in accordance with national planning legislation. Ireland's planning system allows for third party comments and the right to appeal. As such third parties have the right to make submissions to the relevant authorities, in this instance Donegal County Council and An Coimisiún Pleanála. The applicant also has rights, and the planning process seeks to ensure a balance between concerns raised by third parties and the right to make a planning application.

9.9.6. The proposed development was assessed against national, regional and local statutory plans and guidelines, all of which are subject to public consultation. The appeal site is located within the settlement boundary of Creeslough in the County Donegal Development Plan 2024 – 2023. The Development Plan followed the processes required in making such a plan, with extensive public consultation and

Strategic Environmental Assessment (SEA) undertaken. The elected members of Donegal Council made the plan and in turn have identified the lands as suitable for development. Whilst it is acknowledged that the vast majority is subject to a Draft Ministerial Direction to revert the lands to an 'Amenity Area', the applicant has the right to make an application for development.

- 9.9.7. The highly sensitive nature of the site is acknowledged. However, I am satisfied that the planning process and procedures have been carried out in a manner which is consistent with national legislation and the ECHR obligations.

Consultation

- 9.9.8. The third parties raised concerns that there was inadequate consultation with prescribed bodies on safety risk. The sensitive nature of the appeal site is acknowledged. However, from a planning procedural perspective, a development of this nature would not give rise to a requirement for a Planning Authority or An Coimisiún Pleanála to consult with a prescribed authority for the purpose of obtaining technical advice regarding risk of a major accident, as set out in Section 34 (8)(e) of the Planning and Development Act, 2000 (as amended). The Planning Authority engaged with the Chief Fire Officer, who under the Dangerous Substances Act (1972) has responsibility for the regulation of petrol filling stations. I am satisfied that all relevant prescribed bodies were consulted.
- 9.9.9. Concerns were also raised by the third parties regarding a lack of public consultation. Given the extremely sensitive nature of the appeal site, it is acknowledged that meaningful consultation may have benefited both parties. However, there is no statutory requirement to undertake such public engagement.

10.0 AA Screening

- 10.1. I have considered the appeal in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended.
- 10.2. The proposed development is located within the urban area of Creeslough, Co. Donegal. Sheephaven SAC (001190) is located c. 300m east of the appeal site.

10.3. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment as it could not have any effect on a European Site. The reason for this conclusion is as follows:

- The location of the development in a serviced urban area.
- The nature and extent of the proposed development.
- The distance to the nearest European Site.
- The lack of a direct hydrological or ecological pathway to a European Site.

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

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

11.0 Water Framework Directive

11.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.

11.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.

11.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.

11.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

12.0 Recommendation

It is recommended that permission be refused.

13.0 Reasons and Considerations

1. The appeal site forms part of an area which is identified as 'C' on the Creeslough Rural Settlement Map 21.19 of the County Donegal Development Plan 2024 - 2023. This 'C' area is subject to a Draft Ministerial Direction to revert the lands, which includes the majority of the appeal site, to an 'Amenity Area'. It is considered that the proposed development is premature pending the issuing of the Minister's Final Direction which would clarify the zoning of the appeal site. In these circumstances, it is considered inappropriate to pre-empt this decision.

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.

Elaine Power
Senior Planning Inspector

28th July 2026

Appendix 1: EIA Pre-Screening

Case Reference	PL-501159-DL-26
Proposed Development Summary	Demolition of existing dwelling for the construction of a new building which will incorporate shop, post office, off-licence, forecourt, underground storage tanks and pumps and all other associated site works.
Development Address	Creelough, Letterkenny, Co. Donegal.
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ 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)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
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?	

☐ 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. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	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.
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)?	
Yes ☐	
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2: EIA Preliminary Examination

Case Reference	PL-501159-DL-26
Proposed Development Summary	Demolition of existing dwelling for the construction of a new building which will incorporate shop, post office, off-licence, forecourt, underground storage tanks and pumps and all other associated site works.
Development Address	Creelough, Letterkenny, Co. Donegal
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
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).	The appeal site is located within the settlement boundary of Creelough, which is designated as a rural settlement in the Development Plan. The nature and scale of the development is similar to the character of the surrounding area and the established pattern of development. The proposed development would use the public water and drainage services of Uisce Eireann and Donegal County Council. Having regard to the relatively limited nature and scale of the proposed development I am satisfied that it would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location. However, the appeal site adjoins and marginally overlaps a site of a former petrol filling station and apartment development which was subject to a fatal explosion, when ten people lost their lives and many more were seriously injured. The recent disaster on the adjacent site is acknowledged. However, subject to compliance with other codes of practice, I am

	satisfied that a development of this nature does not give rise to a potential risk of a major accident. In this regard, the storage and handling of flammable liquids and fuels for sale or supply to the public are matters dealt with under the Dangerous Substance (Flammable Liquids and Fuel Retail Stores) Regulations 2019. The Dangerous Substances Act (1972) states that petrol filling stations are regulated by the Chief Fire Officer.
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, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The appeal site is a brownfield site with the settlement boundary of Creeslough. This site is not located on, in or adjacent to any ecologically sensitive site and does not have the potential to impact any such sites. Having regard to the location of the site and the nature and scale of the development I am satisfied that there is no potential to significantly affect environmental sensitives in the area, including protected structures. Having regard to the characteristics and urban location of the proposed development and the types and characteristics of potential impacts, I am satisfied that there is no potential to significantly affect environmental sensitives in the area.
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).	Having regard to the relatively modest nature of the proposed development, its location removed from environmental sensitive habitats/features, likely limited magnitude and spatial 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.
Conclusion	

Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)