Inspector's Report
PL-501629-DL-26

Development	Retention of a soft landscaped play area as an extension to existing external play area and construction of a landscaped buffer zone etc.
Location	Small World Crèche, Clareden Drive, Drumlonagher, Donegal Town, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	26/60698
Applicant(s)	Louise Gately
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Michelle Mahon
Observer(s)	None
Date of Site Inspection	9th October 2026
Inspector	Philip Maguire

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1.0 Introduction

1.1. This case relates to a third-party appeal by M. Mahon under the provisions of Section 37 of the Planning and Development Act 2000, as amended (the 2000 Act), following a grant of permission by Donegal Co. Co. in accordance with S. 34 of the 2000 Act.

1.2. This Inspector's Report (IR) and recommendation is made pursuant to Section 376(3) of the Planning and Development Act 2024, as amended (the 2024 Act). An Coimisiún Pleanála ('the Commission') is required to consider both before determining the case.

2.0 Site Location and Description

2.1. Situated along and to the western side of Clareden Drive (L1995), just north of its junction with the Ballybofey Road (R267), the appeal site is located to the eastern periphery of Donegal Town, some 1.2km northeast of the town centre. Clareden Drive is predominantly residential whereas the R267 includes a mix of residential and commercial uses including car sales, a pet shop, a veterinary practice and tyre depot. The River Eske is located to the northwest and the N56 (town bypass) to the northeast. A detached bungalow is located at lower ground level to the northwest of the site.

2.2. The appeal site has a stated area of 0.115 hectares and a road frontage of 27 metres along Clareden Drive. It consists of the end unit of a single-storey, multi-unit commercial building together with outdoor space to the side and parking to the front. A crèche trading as Small World Childcare operates from the appeal site with the outdoor space to the side laid out over different levels and sectioned off for separate play zones. There are ten parking spaces to the front of the crèche with other parking spaces to the east and south of the commercial building. Other premises within the building include a laundrettes / dry cleaners, and a kitchens / bedrooms showroom. Site boundaries are generally defined by a low stone wall and high timber fencing.

3.0 Proposed Development

3.1. Planning permission is sought to retain a landscaped play area and construct a landscaped buffer zone to include 1.8m high timber fence etc.

3.2. The proposed development is described in the statutory notices as:

"…retention permission for a soft landscaped play area as an extension to existing external play areas serving existing crèche facility & planning permission for the construction of a landscaped buffer zone to include 1.8m high timber fence and all associated site development works."

3.3. A cover letter (Cornerstone, April 2026) was submitted in addition to the following:

- Applicant Letter incl. Tusla Certs (Small World Childcare, March 2026)
- Landowners Consent for Communal Parking Use (March 2026)
- Traffic and Transport Statement Form (June 2025)
- Planning Statement (Harley Newman, April 2026)

4.0 Planning Authority Decision

4.1. Decision

4.1.1. Permission was granted on 5th June 2026 subject to 3 no. conditions, including:

Condition 3 requires submission and agreement of a detailed landscaping scheme in respect of the buffer zone prior to commencement and implementation of the agreed scheme within the first planting season with replacement of trees within subsequent three years.

4.2. Planning Authority Reports

4.2.1. The assessment in the Planner's Report (03/06/26) can be summarised as follows:

Principle of Development

- Principle established under PA ref. 13/51214.
- Crèche facility is an appropriate use within Donegal Town settlement framework.
- Principle acceptable subject to other relevant criteria and guidelines.

Siting and Design

- Refers to pre-application discussions in February 2026.
- States that the proposed layout reverts to that permitted under PA ref. 13/51214.

- Notes that retention is being sought for the extended play area only.
- States that there is no intensification as regards childcare spaces.
- Notes that the proposed layout identifies all existing outdoor play equipment although the buffer zones previously illustrated under PA ref. 13/51214 is reduced.
- Notes the boundary treatment with the neighbouring dwelling i.e., 1.8m high fence.
- Notes the cross-section indicates that there has been minimal fill on site.
- States that a landscaping scheme for the buffer zone can be conditioned.

Residential Amenity

- Measures proposed within a town centre are acceptable subject to landscaping.
- A degree of overlooking, noise etc. is to be expected within a town setting.

Access

- Notes that access and parking is not the subject of the proposal as the applicant has reverted to the layout of the parent permission under PA ref. 13/51214.

Public Health

- Notes the submission from the neighbouring dwelling to the north and claims of ponding from fugitive surface water but states that none was evident on inspection.

AA and EIA

- Considers the proposal is unlikely to have any significant effect, individually or in combination with other plans or projects on a Natura 2000 site.
- Considers there is no real likelihood of significant effects on the environment and screens out the need for EIA at preliminary examination stage.

Flooding

- Notes the proximity to a flood zone but states that the use can be accommodated.

Recommendation

- Considers the proposal would not injure the amenities of the area, nor be prejudicial to public health or endanger public safety by reason of a traffic hazard.
- Recommends that permission be granted subject to conditions.

4.2.2. Other Technical Reports

- Roads (02/06/26) No objection.

4.3. Prescribed Bodies

None

4.4. Third Party Observations

4.4.1. The planning authority received 5 no. observation. Issues raised reflect third-party appeal grounds. Concerns, as summarised from the Planner's Report, relate to:

- Residential amenity impacts – overlooking / loss of privacy (CCTV) / noise / litter
- Health and safety issues – location of gas tank
- Raised ground levels / structural damage
- Drainage and flooding
- Inadequate parking

5.0 Planning History

5.1. Appeal Site

5.1.1. PA ref. 25/60270 – in April 2025, the planning authority refused permission to extend the external play area and modify the parking layout (8 no. spaces) and toddler play area to the front of the crèche. Given the lack of parking spaces, and constrained nature of the site and lack of turning area, causing congestion of the adjacent residential area and the associated traffic management issues, it was considered that the proposal would materially contravene policy GEN-ED-5 of the Seven Strategic Town (Donegal Town) LAP 2018-2024 and the County Donegal Development Plan.

5.1.2. PA ref. 23/50485 – in March 2024, the planning authority refused permission to retain the soft landscaped play area etc. for broadly the same reason as outlined above.

5.1.3. PA ref. 22/51236 – in September 2022, the planning authority refused permission for the external play area and proposed change of use of / amalgamation with adjoining commercial unit etc. for broadly the same reason as outlined under PA ref. 25/60270.

5.1.4. PA ref. 13/51214 – in December 2013, the planning authority granted permission for a change of use / amalgamation with adjoining commercial unit etc. with hard surfaced external play area and boundary fencing to the west, rain canopy and external signs.

5.1.5. PA ref. 08/20718 – in December 2008, the planning authority granted permission for a Montessori / pre-school facility within a commercial unit permitted under PA ref. 04/1575, with external playground and car parking provision to the east of the site.

6.0 Policy Context

6.1. Local Planning Policy

County Donegal Development Plan 2024-2030

6.1.1. The County Development Plan came into effect on 26th June 2024. The Plan was subject to a draft Ministerial Direction in July 2024 and is pending a final decision by the Minister following public consultation and OPR recommendations (Sept. 2024).

6.1.2. Variation No. 1 of the Plan came into effect on 27th July 2026. It too is subject to review by the OPR and I note that the OPR issued a preliminary view on 16th September 2026 which in effect suspends certain material alterations associated with this variation. None of the suspensions contained therein affect the site / proposed development.

6.1.3. The site is zoned 'Established Development 1'. Table 17.1 of the Plan outlines the zoning objective. It seeks to conserve and enhance the quality and character of the area, protect residential amenity and allow for development appropriate to the sustainable growth of the settlement, including new residential and commercial development, subject to all relevant material planning considerations, all the policies of the Plan, relevant national/regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area. Table 25.1 indicates that 'crèche / playschool' uses are open for consideration.

6.1.4. Relevant policies and objectives are set out in Chapters 7 (Economic Development), 12 (Community Development), 16 (Technical Standards) and 25 (Donegal Town).

6.1.5. The following sections / tables are relevant to the proposed development:

- 7.4 – Economic Development Framework
- 12.2 – Childcare

- 16.8 – Car Parking Standards
- 25.11 – Economic Development

6.1.6. Summary of policies and objectives relevant to the appeal site:

ED-P-9 Sets out various criteria which proposals for economic development use will be required to meet. The following are of note:

(a) It is compatible with surrounding land uses existing or approved;

(c) It does not harm the amenities of nearby residents; and

(g) It does not create a noise nuisance.

CCG-O-1 Seeks to create sustainable, healthy, socially inclusive, and culturally vibrant communities with an optimum quality of life and high-quality childcare, education, recreational, and cultural infrastructure etc.

CC-P-1 Supports the provision of new service-related developments (e.g. childcare etc.) subject to zoning and locational criteria, including:

(a) At locations within defined boundaries of settlement framework/urban areas which are within safe walking distance (i.e. via an existing or proposed footpath) of local services and residential areas etc.

GEN-DM-1 Supports the principle of development proposals that are generally consistent with the zoning objective (Table 17.1) and corresponding zones, and supported in the zoning matrix for the relevant Area Plan.

DT-ED-O-1 Seeks to consolidate and strengthen existing economic developments within Donegal Town etc.

6.1.7. I note that policy ED-P-9 reflects policy GEN-ED-5 of the Seven Strategic Town LAP 2018-2024, as extended, ('the SSTLAP') which was replaced through Variation No. 1.

6.2. National Planning Policy and Guidelines

Development Management Guidelines

6.2.1. The Development Management Guidelines (DEHLG, 2007) are intended to promote best practice at every stage of the development management process. Section 7.3 sets out the basic criteria in deciding whether or not to impose a planning condition.

In this regard, conditions should be necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other regard.

6.2.2. Section 7.8 concerns conditions relating to other codes. It states that it is inappropriate to deal with matters which are the subject of other controls unless there are particular circumstances, e.g., the matters are relevant to proper planning and sustainable development and there is good reason to believe that they cannot be dealt with effectively by other means. It notes that the existence of a planning condition, or its omission, will not free a developer from his or her responsibilities under other codes and it is entirely wrong to use the development management process to attempt to force a developer to apply for some other licence, approval, consent, etc. In relation to fire safety, it states that under no circumstances should a condition be included in a permission requiring that "the developer shall consult with and comply with the requirements of the Fire Officer", whether or not such requirements are known at the time of decision. This kind of condition is objectionable in principle, and likely invalid.

6.3. Natural Heritage Designations

6.3.1. Relevant proposed Natural Heritage Area (pNHA) designation(s):

- Donegal Bay (Murvagh) pNHA (000133) – 1.2km west

6.3.2. Relevant Special Areas of Conservation (SAC) designation(s):

- Lough Eske and Ardnamona Wood SAC (000163) – 0.2km north
- Donegal Bay (Murvagh) SAC (000133) – 1.2km west

6.3.3. Relevant Special Protection Area (SPA) designation(s):

- Donegal Bay SPA (004151) – 1.2km west

7.0 EIA Screening

7.1. The proposed development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulations 2001, as amended ('the Regulations'), and therefore no preliminary examination is required (see Appendix 1).

8.0 The Appeal

8.1. Grounds of Appeal

8.1.1. A third-party appeal has been lodged by Michelle Mahon of Drumlonagher, Donegal Town, County Donegal. The grounds of appeal can be summarised as follows:

Gas Tank Safety

- Original fire-resistant protective fence around the LPG tank (adjacent to play area) removed and replacement not treated with fire-resistant paint.

Restricted Access to Essential Infrastructure

- Gas supplier access is now severely restricted i.e., tank can only be refilled outside crèche operating hours, usually in early morning.
- Routine maintenance around the tank also prevented.

Safety Risks Created by the Play Area

- Children observed throwing stones and toys at the gas tank from play area and this demonstrates incompatibility of children's play area with LPG installation.

Concerns Raised by the Gas Supplier

- Supplier requested engagement with planning authority to discuss safety issues.
- Concerns of gas supplier should be given significant weight.

Inadequate Parking Provision and Impact on Existing Businesses

- Crèche severely limits parking availability for appellant's customers.
- Proposal falls significantly short of the required parking provision in the Plan.
- Parking deficiency cannot be accommodated within shared commercial car park.

CCTV Privacy Concerns

- Request the planning authority to examine whether the positioning and operation of the CCTV cameras complies with planning and data protection obligations.

Consultation with Chief Fire Officer

- Planning Report does not confirm whether consultation with the Chief Fire Officer took place or what conclusions / recommendations were made.
- Submits that an assessment by the Chief Fire Officer should be part of the decision.

Repeated Retention Applications

- Refers to three previous refusals at the appeal site due to inadequate parking provision and adverse impact on neighbouring residential and commercial amenity.
- Revised applications fail to address the fundamental concern repeatedly identified by the planning authority, particularly that related to parking standards.

Conclusion

- Cautions that legal advice will be sought should the matters remain unresolved, particularly those relating to the proximity of children to an LPG installation.

8.2. **Applicant Response**

8.2.1. A response was received from Harley Newman on behalf of the applicant, Louise Gately. The response includes separate commentary by the applicant as well as a report by Donegal Safety Services. The response can be summarised as follows:

Introduction

- Considers that the appeal grounds lack proper foundation or substance and cannot readily be sustained.

Compliance with PA ref. 13/51214

- Parking area permitted under PA ref. 13/51214 has been reinstated.
- Toddler play area reinstated / reintegrated with original permission.
- Refers to the Planner's Report under PA ref. 13/51214 regarding parking spaces.
- Notes the location of additional staff spaces at Drumlonagher Business Park.
- Considers the crèche, which now operates in compliance with PA ref. 13/51214, could not reasonably be considered to adversely impact on road users.

- States that the extended play area is the only aspect that now requires regularisation and the landscape buffer zone, which is inaccessible to children, is also proposed to mitigate direct overlooking and protect residential amenity.
- No intensification of activity has occurred since the implementation of permission and refers to the applicant's supporting letter and a Tusla letter regarding same.
- Submits that parking and access to the crèche (which are operational as per the parent permission) should not form the primary basis for any material consideration of an extension to the amenity space provided for the wellbeing of children.
- Submits that the proposal would have no material impact on use or capacity.

Local Authority Decision

- Submits that the local authority adopted a balanced and pragmatic approach in considering and assessing the proposal and refers to the Planner's Report.

Response to Appeal Grounds

Gas tank operation / maintenance / safety

- Considers that the issues concerning the LPG tank are health and safety issues that are not relevant nor governable under the planning code.
- Applicant has sought to facilitate access to the LPG tank for many years and maintained and replaced the protective fencing complete with fire-resistant paint.
- Refers to the report by Donegal Safety Services which concludes that the issues raised in the *Flogas* letter (submitted with appeal) no longer exist and the applicant's comments which refers to specific arrangement with the delivery driver.

Parking

- Submits that claims regarding parking being adversely affected by the parking / traffic associated with the crèche is without foundation as the proposal, by definition, could not have any material impact on parking or traffic-related issues.
- Reiterates that there has been no intensification in terms of numbers i.e., has remained at 82 no. since operations commenced on foot of the 2013 permission.
- Reiterates that the proposal would have no material impact on use or capacity.

- Submits that the proposal has no practical implications for parking either at the crèche or any other units and refers to the Planner's Report in this regard.
- Considers the parking concerns are without foundation and cannot be sustained.

Conclusion

- Submits that the proposal, which would not seriously injure residential amenities or impact on traffic or pedestrian safety, complies with the Development Plan and would allow for increased outdoor space for the children at the crèche facility.
- Requests that the decision of the local authority be upheld and permission granted.

8.3. Planning Authority Response

8.3.1. The planning authority's initial response can be summarised as follows:

Gas Tank Safety and Access

- Tank location, protection and access is the landlord's responsibility.
- Notes that whilst there is no report from the Chief Fire Officer, states that the report on the previous application is relevant i.e., "Bulk Tank Gas Installation must comply with the requirements of IS 3216 and secured with appropriate mesh metal fence".
- Considers the above to be outside the planning code i.e., it is dealt with under Building Regulations.

Parking Provision and Impact on Businesses

- Proposal submitted in response to previous refusals, active enforcement and pre-application discussions.
- Notes that the layout reverts to that permitted under PA ref. 13/51214 as regards entrance and parking details with retention sought for the extended play area.
- States that there is no intensification as regard childcare spaces over and above that permitted under PA ref. 13/51214 / capped by Tusla accreditation.

CCTV / Privacy Concerns

- Concerns regarding the monitoring of activity is a civil matter between the parties.

Conclusion

- Considers that all other matters raised have been previously addressed in the Planner's Report dated 3rd June 2026; relies on same in response to the appeal.

8.3.2. A subsequent response was received and it can be summarised as follows:

- Notes the contents of the first party response which sets out the history of development and clarifies that the crèche is now compliant with PA ref. 13/51214.
- Notes that the only element requiring regularisation is the extended play area along the north-western boundary with additional landscape buffer zone.
- Acknowledges that tank access is facilitated and area maintained by the applicant.

8.4. **Further Responses**

8.4.1. A further response was received from the appellant, Michelle Mahon. It can be summarised as follows:

- Pleased to see works carried out to address / ensure safety of the LPG tank but remains concerned about the length of time that it took for them to be executed.
- Requests confirmation that:
    - Yearly certificate / inspection report provided confirming that the tank remains compliant and safe.
    - Ground pipes associated with the tank are checked and confirmed to be in good and safe condition.
    - Appropriate ongoing inspections and maintenance will be continued.
- States that the concerns have also related to the safety and wellbeing of the children attending the crèche and they were raised in good faith.
- Submits that the responsibility that the gas tank remains safe and properly maintained should rest with the landowner, applicant and relevant planning authority should permission to grant be upheld.
- Notes that the overcrowding of the car park has now been resolved and expresses hope that this arrangement will remain in place in the future.

9.0 Assessment

9.1. Preliminary Points

9.1.1. Having examined the application details and all other documentation on the appeal file, including the appeal submissions and observations, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal.

9.1.2. The issues can be addressed under the following headings:

- Land Use and Development Principle
- Residential Amenity Impact
- Traffic and Transport
- Public Health
- Other Issues

9.2. Land Use and Development Principle

9.2.1. Planning permission has been sought to retain a north-westerly extension to an outdoor play area associated with an established crèche / childcare facility as previously permitted under PA ref. 13/51214. The area to be retained is stated on a layout drawing as 0.023ha and is wedge shaped in plan view. It sits generally lower than the adjoining crèche which has a FFL of 9.05mAOD and the immediately adjacent outdoor areas which are illustrated between 8.69mAOD and 8.95mAOD. The ground level in the area to be retained is between 6.80mAOD to the west and 7.94mAOD to the east. The adjacent dwelling to the northwest, a bungalow, has a 6.73mAOD FFL. A note on the drawing indicates that ground levels remain largely unchanged from those prior to the commencement of the works and this is also represented in section.

9.2.2. The area to be retained includes outdoor play equipment such as slides and climbing walls as well as a covered area. Whilst the upper part of the play area, as previously authorised under PA ref. 13/51214, includes an astroturf finish, I note that the area to be retained is laid out in landscaping bark chippings. A note on the drawing indicates that all surface water discharges to an open drain, illustrated as a sheugh to the southwest corner, via a stone land drain which runs along the northwestern boundary.

9.2.3. A separate layout drawing illustrates the proposed landscaped buffer zone between the play area and the neighbouring property to the northwest. It has a stated area of 0.005ha and is effectively a smaller wedge within the larger wedge to be retained when viewed in plan. The buffer zone will be defined by a new 1.8-metre-high timber fence. The section drawing indicates that the buffer zone will be planted with 2 or 3 medium-size trees which will grow to an estimated height and spread of 2.5 by 2.5 metres.

9.2.4. The landscape layout illustrates 'existing flood lights to be removed'. These are three lighting columns along the northwestern boundary but they did not have any lighting fixture during inspection. I did, however, note that CCTV cameras were fixed to two of the columns and faced inwards towards the area to be retained i.e., the play area. Other cameras were fixed to the external walls of the crèche, including the gable end.

9.2.5. Whilst not annotated on either layout drawing, the location of the LPG tank is clearly identifiable, defined with fencing and marked on the ground with appropriate signage.

Consideration of the Issues

9.2.6. As noted, Variation No. 1 of the Development Plan came into effect on 27th July 2026 and subsequent to the decision of the planning authority to grant permission on 5th June 2026. Insofar as it relates to the appeal site, it gives effect to a new Area Plan for Donegal Town and in doing so supersedes the zoning under the replaced SSTLAP.

9.2.7. Whilst Variation No. 1 is currently subject to an OPR preliminary view notice under Section 63(6) of the 2024 Act, with the effect of suspending certain material alterations associated with this variation, none of the suspensions contained therein affect the appeal site. The site is thus zoned 'Established Development 1' in the Development Plan with a zoning objective to conserve and enhance the quality and character of the area, protect residential amenity and allow for development appropriate to the sustainable growth of the settlement, including new commercial development etc.

9.2.8. Table 25.1 of the Development Plan indicates that 'crèches / playschools' are open for consideration within this zoning and thus generally supported by policy GEN-DM-1.

9.2.9. Whilst I accept that the crèche is long-established at the appeal site, and the proposal is borne out of the applicant's desire to regularise all aspects of the operation, it is important to acknowledge the general policy support for the use, including the ancillary aspects, as is the case here. In this regard, I note that objective CCG-O-1 seeks to

create sustainable, healthy, socially inclusive, and culturally vibrant communities with an optimum quality of life and high-quality childcare, and policy CC-P-1 supports childcare services subject to zoning and locational criteria i.e., urban areas in safe walking distance of local services and residential areas. At a local level, objective DT-ED-O-1 seeks to consolidate and strengthen economic development in Donegal Town.

9.2.10. In this regard, I consider the suburban location of the appeal site, peripheral to the town centre and surrounded by residential areas and local services, to be optimal for such a facility and thus any ancillary development thereto is supported by both CCG-O-1 and CC-P-1, as well as DT-ED-O-1 whereby the existing use is consolidated.

9.2.11. I also note the provisions of policy ED-P-9 of the Development Plan which sets out various criteria which economic development uses are required to meet. The criteria include compatibility with surrounding land use, which is evidently the case at the appeal site, along with residential amenity considerations which I will address below.

Conclusion on Land Use and Development Principle

9.2.12. On balance, I am satisfied that the proposed development, including that to be retained, is acceptable from a land use and development principle, subject to further consideration of the residential amenity impact, and traffic and public health concerns.

9.3. Residential Amenity Impact

9.3.1. Whilst not raised directly in the appeal grounds, the applicant, in their appeal response, states that the proposed landscape buffer will mitigate any residential amenity impact. I also note that such impacts were raised by third parties during the application stage.

9.3.2. As noted, this buffer is a 50sq.m wedge to the northwestern corner of the appeal site and directly opposite the gable end of the adjacent bungalow. It will be fenced off from the remainder of the play area by a new 1.8-metre-high close board timber fence and separated from the neighbouring bungalow by the existing boundary fence. The landscape layout also illustrates the buffer zone planted out with low level shrubbery.

9.3.3. Condition 3 of the planning authority decision requires submission and agreement of a detailed landscaping scheme in respect of the buffer prior to commencement etc.

Consideration of the Issues

9.3.4. As noted, the adjacent bungalow has a FFL of 6.73mAOD and is within 5.2 metres of the existing boundary fence. In this regard, I note that the fence is set marginally off

the site boundary which is defined by a low wall as observed from the neighbouring property. Whilst the windows in the gable end of the bungalow are observable from the upper levels of the outdoor play area, views from the lower levels are generally screened by the existing fence. The relevant cones of vision are accurately illustrated in the section from elevated ground over distances between 14 and 22 metres. Such overlooking, whilst limited to the crèche staff supervising the play area, will be further obscured by the proposed trees which, as noted, will grow up to 2.5 metres in height.

9.3.5. I also consider that the additional fence and planting will mitigate any additional noise associated with the extended outdoor play area for which retention is being sought. In this regard, I agree with the comments in the Planner's Report regarding the town setting where some overlooking and noise are within a normal range of tolerances. The proposal is therefore fully compliant with policy ED-P-9 of the Development Plan.

Conclusion on Residential Amenity Impact

9.3.6. On balance, I am satisfied that the development to be retained does not adversely impact on the residential amenity of the adjacent dwelling or indeed on the amenity of any of the neighbouring dwellings along Clareden Drive. I agree with the planning authority that the buffer landscaping should be conditioned and subject to agreement.

9.3.7. I also note that the existing lighting columns along the northwestern boundary are to be removed and this should also be carefully controlled by planning condition. In this regard, I recommend such conditions if the Commission are minded to grant retention.

9.4. **Traffic and Transport**

9.4.1. Concerns regarding parking and traffic congestion at, and in the vicinity of, the appeal site is one of the core appeal grounds with reference made to non-compliance with Development Plan standards and subsequent impacts on the appellant's business.

9.4.2. However, I note that the appellant's further response states that overcrowding of the car park has now been resolved with hope expressed that this arrangement remains. They have not, however, withdrawn their appeal and thus the issue needs ventilated.

9.4.3. The applicant, on the other hand, submits that the appellant's initial claims regarding parking and traffic were without foundation, as there is no intensification of use in terms of childcare places; and thus the proposal has no practical implications for parking either at the crèche or any of the other commercial units adjacent to the appeal site.

9.4.4. Similar comments are echoed in the planning authority's response. They also note that the layout reverts to that permitted under PA ref. 13/51214 in terms of parking etc.

Consideration of the Issues

9.4.5. I have reviewed the permission granted under PA ref. 13/51214 and I accept that the proposed parking layout and that observed during my visit is as previously permitted. In the absence of any increase in childcare spaces or material intensification of the use of the premises, there is no conceivable impact on traffic or parking arrangements.

9.4.6. I therefore agree with the applicant that this aspect of the appeal is without substance or foundation and cannot be afforded any weight in the decision-making process. Moreover, the appellant's further response expressly states that this is no longer an issue. In such circumstances, the Commission may wish to consider a dismissal under Section 138 of the 2000 Act, however it is not recommended given the site history.

Conclusion on Traffic and Transport

9.4.7. There is no evidence that the proposal adversely impacts on parking to the extent that it gives rise to traffic and transport issues in the area. I do, however, recommend that any permission is tethered to the parent permission granted under PA ref. 13/51214.

9.5. **Public Health**

9.5.1. The main concerns raised in the appeal relate to the location of the LPG tank within the extended outdoor play area which is to be retained. Various issues regarding access (including refuelling), maintenance and safety and wellbeing of the children are specifically mentioned, and I do accept that these concerns were raised in good faith.

9.5.2. The applicant, on the other hand, considers that the health and safety issues associated with the LPG tank fall outside the planning code. Nonetheless, they have submitted a report which indicates that concerns previously raised by *Flogas,* and included within the appellant's submission, no longer exist at the appeal site. Moreover, the protective fencing has recently been replaced and the applicant has indicated that access to the tank for refuelling is being reasonably accommodated.

9.5.3. Similar comments are echoed in the planning authority's response and whilst they accept that there is no report from the Chief Fire Officer, they refer to a previous report where the Chief Fire Officer states that such installations "must comply with the

requirements of IS 3216" (i.e., IS 3216:2025 Part 2, *Code of Practice for the Bulk Storage of Liquefied Petroleum Gas*) and be secured with metal mesh fencing etc.

Consideration of the Issues

9.5.4. Of course, both the applicant and planning authority are correct as detailed in Section 7.8 of the Development Management Guidelines. It is inappropriate to deal with matters which are the subject of other controls unless there are particular circumstances, and such circumstances are not evident in this case. In this regard, I note that compliance with the aforementioned code of practice is effectively a legal requirement under the Dangerous Substances Regulations, 2019 (SI No. 631/2019).

9.5.5. To further allay the concerns of the appellant, I note that such installations are the subject of annual inspections and whilst the specific requests made by the appellant in their further response fall outside the planning code, they have a statutory footing elsewhere in health and safety legislation. In this regard, I am fully satisfied that the proposal will not adversely impact on public health. In the event of a grant of permission, the Commission may wish to remind the applicant of such obligations.

Conclusion on Public Health

9.5.6. There is no evidence that the proposal adversely impacts on public health. I do, however, recommend that any permission is subject to an appropriate advice note in relation to the owner / occupier's obligations under IS 3216:2025, as noted above.

9.6. **Other Issues**

9.6.1. Finally, the appellant has raised concerns regarding the positioning and operation of the CCTV cameras on site, as well as the history of repeated planning applications.

9.6.2. The CCTV cameras do not form part of the proposal save for those to be removed by virtue of being mounted on the lighting columns. In any event, the monitoring of activity through CCTV is a civil matter between the parties, as noted by the planning authority.

9.6.3. I note that the repeated applications are borne out of a necessity to regularise activities at the site, and subsequent to enforcement action initiated by the planning authority.

Conclusion on Other Issues

9.6.4. The above assessment represents my *de novo* consideration of all planning issues material to the proposal to retain a play area and construct a landscaped buffer etc.

10.0 **AA Screening**

Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)
I have considered case PL-501629-DL-26 in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The development proposal is located within a mixed-use commercial area to the eastern periphery of Donegal Town, some 1.2km northeast of the town centre. It comprises retention of the landscaped play area with new landscaped buffer zone including 1.8-metre-high timber fence. The closest European sites, part of the Natura 2000 Network, are Lough Eske and Ardnamona Wood SAC, some 200m north, and Donegal Bay (Murvagh) SAC and Donegal Bay SPA, some 1.2km west. Having considered the nature, scale and location of the development proposal, which includes aspects to be retained, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows: • Small scale and ancillary nature of the development proposal; • The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site, and • Taking into account the screening determination of the LPA. I conclude, on the basis of objective information, that the development proposal, including that to be retained, would / did not have a likely significant effect on any European Site either alone or in combination with other plans or projects. 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 (2000/60/EC).

11.2. Having considered the nature, scale, and location of the development proposal, which includes aspects to be retained, 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 Directive 2000/60/EC.

11.4. Accordingly, the development proposal, which includes aspects to be retained, is considered to be compliant with the requirements of Article 4.

12.0 **Recommendation**

12.1. I recommend that permission be **granted** for the reasons and considerations below.

13.0 **Reasons and Considerations**

13.1. Having regard to the provisions of County Donegal Development Plan 2024-2030, as varied, the location of the development proposal within the settlement boundary of Donegal Town, on zoned and serviced lands, the nature of the proposal in the context of the appeal site and surrounding area, and the prevailing pattern and character of development in this area, it is considered that, subject to compliance with the conditions set out below, the development proposal, including that to be retained, would not seriously injure the residential amenities of the area or property in the vicinity, would not endanger public safety by reason of a traffic hazard or impact on public health, including that of the occupants. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 **Conditions**

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

   Reason: In the interests of clarity.

2. The development shall comply with the conditions of the parent permission PA ref. 13/51214 unless the conditions set out hereunder specify otherwise.

   Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. (a) All buffer planting shall be agreed in writing with the planning authority within three months of the date of this order and carried out within the first planting season following agreement. Any trees or shrubs which die, are removed or become seriously damaged or diseased shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

   (b) Details regarding the removal of the existing flood light columns as illustrated on Drawing No. P-002 stamped received 22nd April 2026 shall be submitted to and agreed in writing with the planning authority within three months of the date of this order and removed in accordance with that agreement.

   Reason: In the interest of residential amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

   Reason: In the interest of residential amenity and sustainable urban drainage.

Advice Note: The owner / occupier is reminded of their obligations under IS 3216:2025 Part 2, *Code of Practice for the Bulk Storage of Liquefied Petroleum Gas*.

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.

Philip Maguire

Inspectorate

22nd October 2026

Appendix 1 (EIA Screening)

Form 1 – EIA Pre-Screening

Case Reference	PL-501629-DL-26
Proposed Development Summary	Retain landscaped play area and construct a landscaped buffer zone including 1.8m high timber fence
Development Address	Small World Crèche, Clareden Drive, Drumlonagher, Donegal Town, 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? (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)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
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,	Not considered to be "urban development" for the purposes of Class 10(b)(iv) of Part 2 of Schedule 5 of the Regs.

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)**	

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: _____