

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Sligo County

Planning Register Reference Number: PL 16/34

An Bord Pleanála Reference Number: PL 21.246469

APPEAL by Lorraine Courtney, Nancy Farrell and Ulrike Schwier care of Cunnane Stratton Reynolds of 3 Molesworth Place, Dublin against the decision made on the 24th day of March, 2016 by Sligo County Council to grant subject to conditions a permission to Marian Herity and Karl McDermott of Ballymuldorry, Ballinfull, County Sligo in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: The construction of a single-storey dwelling house, proprietary effluent treatment system (P.E.T) and percolation area and all associated site works at Raghly, Ballinfull, County Sligo.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development, the high quality of the design, the care taken in siting the development, the pattern of development in the area, and the policies of the planning authority as set out in the Sligo County Development Plan 2011-2017, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, would be in accordance with the provisions of the Development Plan, would not set a precedent for further development on this highly sensitive peninsula, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Having regard to the nature, scale and location of the proposed development, to the distances to European Sites, and to the poor potential for connectivity with those sites, the Board is satisfied that, by itself or in combination with other plans or projects, the proposed development would not be likely to have significant effects on European Sites having regard to the conservation objectives for those sites. The Board accepted the assessment of the Inspector on this matter and shared her conclusions.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the quality of the design approach and of siting, and considered that the proposed development would integrate into its surroundings in an acceptable manner, in view of the high level of visual sensitivity of this open and exposed coastal headland. The Board was satisfied that the applicant has close family ties in the community such as would meet the criteria for local rural housing need set out in the Sligo County Development Plan and in the "Sustainable Rural Housing Guidelines for Planning Authorities".

CONDITIONS

1. The development shall be carried out 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. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. The finished floor level of the proposed dwelling house shall not exceed 16.80 metres in accordance with the Site Layout Plan submitted to the planning authority on the 5th day of February, 2016.

Reason: In the interest of the visual amenities of the area and of clarity.

4. (1) The proposed stone to be used in the external finish of the dwelling house shall be natural stone sourced from the local area.
(2) The external walls shall be finished in neutral colours such as grey or off-white.
(3) The roof colour of the proposed house, including ridge tiles, shall be black.

Reason: In the interest of visual amenity.

5. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

6. (a) The existing front boundary shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.
(b) In the event that the roadside boundary is required to be set back to facilitate sightlines, the roadside area in front of the set-back boundary shall be planted with low-growing species so as not to obstruct sightlines.

- (c) The entrance gates to the proposed house shall be set back not less than four metres and not more than six metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height. The Wing walls shall be of stone or sod-and-stone.

Reason: In the interest of visual amenity.

- 7. (a) The carriageway of the public road shall not be raised, lowered or otherwise altered at its junction with the access driveway to the proposed dwelling.
- (b) The gradient of the access driveway shall not exceed 3% for the first seven metres adjacent to the carriageway of the public road.

Reason: In the interest of traffic safety.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

- 9. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

- 10. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

11. (a) The treatment plant and polishing filter shall be located constructed and maintained in accordance with the details submitted to the planning authority on the 5th day of February, 2016, and in accordance with the requirements of the Environmental Protection Agency entitled Code of Practice – “Wastewater Treatment and Disposal Systems Serving Single Houses” (2009). No system other than the type proposed in the submission shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, the developer shall submit to the planning authority a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA Code of Practice.

Reason: In the interest of public health.

12. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.