

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Donegal County

Planning Register Reference Number: 16/51384

An Bord Pleanála Reference Number: PL 05E.247960

APPEAL by Brian Parke of Millbrook, Rathmullan, County Donegal against the decision made on the 12th day of January, 2017 by Donegal County Council to grant subject to conditions a permission to Garry and Imelda McMahon care of Dominic Whoriskey Building Design and Surveying of Main Street, Newtowncunningham, County Donegal in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: The construction of a dwellinghouse, detached domestic garage and wastewater treatment system with polishing filter and all associated site works at Millbrook, Rathmullan, Letterkenny, County Donegal.

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, scale and location of the proposed development, the policies set out in the Donegal County Development Plan 2012-2018, and the pattern of existing development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health, would make adequate provision for the disposal of surface water, would be acceptable in terms of traffic safety and convenience, would not unduly impact on the amenities of the area and would conform to the provisions of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12th day of December, 2016, 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. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions 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 dwellinghouse 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 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 Environmental Protection Agency document.

Reason: In the interest of public health.

4. The roof colour of the proposed house shall be blue-black, black, or slate grey only. The colour of the ridge tiles shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing -
 - (i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder, and which shall not include prunus species.
 - (ii) Details of screen planting along site boundaries, which shall not include cupressocyparis x leylandii species.
 - (iii) Hard landscaping works, specifying surfacing materials and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation.

All planting shall be adequately protected from damage until established. 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. Prior to commencement of development, permanent visibility splays of 50 metres shall be provided in each direction from a point 2.4 metres back from the road edge at the location of the vehicular entrance onto the public road. Visibility in the vertical plan shall be measured from a driver's eye height of 1.05 metres and two metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision splays shall be calculated and provided as per Figure 7 of Section 10.2.10 of Chapter 10 (Development and Technical Standards), County Donegal Development Plan 2012-2018, as varied.

Reason: In the interest of traffic safety.

7.
 - (a) The garage herein permitted shall be used for domestic purposes only ancillary to the residential amenity and enjoyment of the parent dwellinghouse.
 - (b) The domestic garage herein permitted shall either be constructed subsequent to, or concurrently with, the construction of the parent dwellinghouse.

Reason: In the interests of residential amenity and orderly development.

8. All surface water occurring within the site shall be collected and discharged to the nearby stream in accordance with the details submitted with the planning application, as amended by the further plans and particulars submitted on the 12th day of December, 2016. During the period of construction, the surface water disposal system shall provide for the containment within the site of all sediment/silt arising. The storm water drainage system shall be piped with appropriately sized pipes, that is, sized in accordance with the results of storm water calculations that have been carried out by a suitably qualified person. Details of the system shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

9. 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 the 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 2017.