



Planning and Development Acts 2000 to 2018

Planning Authority: Donegal County Council

Planning Register Reference Number: 18/51968

Appeal by Danielle Crawford of “Trimragh”, Letterkenny, County Donegal against the decision made on the 22nd day of February, 2019 by Donegal County Council to refuse permission to Marcella Rodgers care of McCullagh Architecture and Surveying of Glenfinn Road, Ballybofey, County Donegal for the proposed development.

Proposed Development: (1) Retention and completion of a dwellinghouse, domestic garage and vehicular entrance and (2) permission for a septic tank/sewage treatment system and associated site development works at Trimragh, 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 planning history of the site and the existing pattern of development on the site and in the vicinity, it is considered that, subject to compliance with the conditions set out below, the development to be completed and retained would not be injurious to the visual amenity of the area or seriously injure the residential amenities of property in the vicinity, and would (subject to the imposition of a restricted occupancy requirement) be in compliance with the provisions of the Donegal County Development Plan 2018-2024. The development for which retention is sought, and the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained, 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. This permission shall be deemed to be a replacement for planning permission register reference number 11/40422.

Reason: In the interest of clarity, and having regard to the fact that the development as constructed does not comply with the terms and conditions of that previous planning permission.

2. The subject development shall be amended as follows:-
 - (a) The window identified on the submitted floor plans as the proposed bedroom 4 at first floor level on the south-eastern side elevation shall be omitted, and the resultant gap completely infilled.
 - (b) All windows at first floor level on the side elevations shall be permanently fitted with frosted glazing.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority within two months of the date of this permission, and the works concerned shall be fully completed prior to first occupation of the proposed dwelling.

Reason: In the interest of protecting the residential amenities of adjoining properties.

3. (a) The proposed effluent treatment and disposal system 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. Arrangements in relation to the on-going maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to the installation of this system.
- (b) 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 in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

4. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant or members of the applicant’s immediate family or their heirs, and shall remain so occupied for a period of at least seven years. Within three months of the date of this permission, 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: In the interest of clarity and to ensure that the proposed house is used to meet the applicant's stated housing need, that development in this rural area is appropriately restricted and in order to prevent speculative development.

5. The site shall be landscaped, using only indigenous species with no Leyland cypress trees permitted, in accordance with a revised overall landscaping scheme which shall be submitted to, and agreed in writing with, the planning authority within two months of the date of this permission. This scheme shall include the following:
 - (a) details relating to all of the boundaries of the site,
 - (b) details of planting species proposed within the site, and
 - (c) a timescale for the implementation of the planting and landscaping.

Reason: In the interest of visual amenity.

6. Unless full payment has been made under condition number 7 of planning permission register reference number 11/40422, 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 within one month of the date of this Order 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.

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

Dated this day of 2019.