

An
Bord
Pleanála

Board Order
ABP-312461-22

Planning and Development Acts 2000 to 2021

Planning Authority: Donegal County Council

Planning Register Reference Number: 21/50819

Appeal by P Mulrine and Sons care of Carr Architects of Unit 1, Northern Point Business Park, Ballybofey, County Donegal against the decision made on the 17th day of December, 2021 by Donegal County Council to grant subject to conditions a permission to Andrei Bogdan care of William Donoghue and Associates of Main Street, Mountcharles, County Donegal in accordance with plans and particulars lodged with the said Council.

Proposed Development: Six number two-bedroom terraced houses with associated private open space amenities. Provision of pedestrian footpath to connect to existing footpath network. Connection to adjoining foul and storm water sewers and public watermains. Provision of car parking facilities to the dwelling houses. All associated site development works, all at Barnes Court, Ballybofey, County Donegal in the townland of Ballybofey, as revised by the further public notices received by the planning authority on the 24th day of November, 2021, which reduce the number of houses applied for to five.

MSG

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.

Reasons and Considerations

Having regard to the relevant provisions of the County Donegal Development Plan 2018-2024 and to the Seven Strategic Towns Local Area Plan 2018-2024, to the pattern of development in the area, to the location of the site within an established urban area, and to the nature and extent of the proposed residential development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would be acceptable in terms of the residential amenity of prospective residents, including by reference to noise, would be acceptable in terms of pedestrian and traffic safety and would constitute an appropriate use at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

MS6

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered the totality of the documentation on file received at application and appeal stages and concluded that the applicant has sufficient interest to undertake the proposed development, including works on lands within the ownership/control of the planning authority. Furthermore, the Board noted the provisions of Section 34(13) of the Planning and Development Act 2000, as amended. With regard to the residential amenity of prospective residents of the proposed development, the Board considered the location of the site on lands zoned for residential development, within an established urban area, and adjoining existing residences and a factory premises. Having regard to the totality of the commentary on file from all parties, the Board determined that the proposed development would provide a satisfactory standard of amenity to future residents and that the proposed development would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 received by the planning authority on the 27th day of September, 2021, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of development, revised plans shall be submitted to, and agreed in writing with, the planning authority illustrating the relocation of the five number car parking spaces to the south of the proposed development to the eastern boundary wall and associated amendments to the private open space serving dwelling number 1.

Reason: In the interest of orderly development, residential amenity and traffic safety.

3. Proposals for a street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the proposed development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

5. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

6. 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 public health.

7. All foul sewage and soiled water shall be discharged to the public foul sewer.

Reason: In the interest of public health.

8. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

9. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

10. Individual plot boundaries to the rear of each dwelling shall be two metres high close board tanalised timber fencing.

Reason: In the interest of the amenities of the area.

11. The site shall be landscaped, including semi-mature broad-leafed trees native to the area. Any plants or trees which die, are removed or become seriously damaged or diseased, within a period of three 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.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

13. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

14. Prior to the commencement of any house in the development, as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

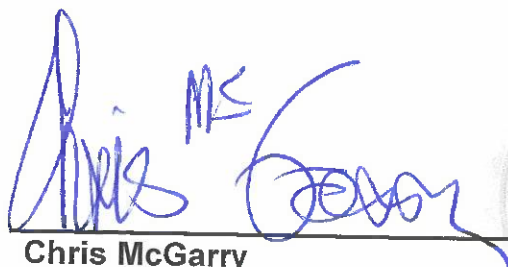
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

16. 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.


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

Dated this 31st day of August 2022.