

An  
Bord  
Pleanála

Board Order  
ABP-312660-22

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## Planning and Development Acts 2000 to 2021

**Planning Authority:** Galway County Council

**Planning Register Reference Number:** 21/2080

**Appeal** by Gwenda and Tom Francis care of McMullin Associates Architects of Tirchonail Street, Donegal Town against the decision made on the 10<sup>th</sup> day of January, 2022 by Galway County Council to refuse a permission for the proposed development.

**Proposed Development:** A new dwelling house, domestic garage, wastewater treatment system and associated filter and all associated site development works at a site at Boleynasruhaun, Bushy Park, County Galway.

## 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 location of the site, to the established rural need of the applicant and to the nature, scale and extent of the proposed dwelling and garage, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the statutory development plan in terms of design and would be consistent with the provisions of the statutory development plan, Ministerial Guidelines and national policy in terms of rural housing need, would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered the totality of the documentation submitted with application and the appeal and determined that in this case, the applicant had established a specific rural housing need at this site by reason of the direct relationship to farming activity on adjoining lands. Furthermore, having regard to the nature, scale and positioning of the proposed dwelling on site at a location that would not create a significant visual impact from the public road and noting the existing landscaping and tree coverage at the site and environs, it was determined that the proposed dwelling would not constitute a haphazard and visually intrusive and insensitive development at this location.

## 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 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.

4. (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 9<sup>th</sup> day of November, 2021, and in accordance with the requirements of the document entitled "Code of Practice Domestic Waste Water Treatment Systems" – Environmental Protection Agency, 2021. 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 EPA document.

**Reason:** In the interest of public health.

5. Prior to commencement of development, the developer shall enter into a water connection agreement with Irish Water.

**Reason:** In the interest of public health.

6. (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.

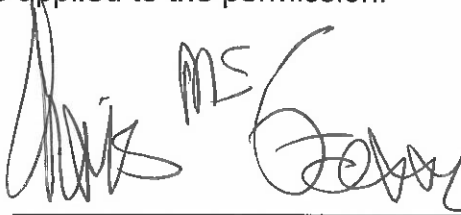
**Reason:** In the interest of traffic safety and to prevent pollution.

7. 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.

8. 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 10<sup>th</sup> day of June 2022

