

An  
Bord  
Pleanála

## Board Order ABP-313339-22

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Monaghan County Council**

**Planning Register Reference Number: 21/520**

**Appeal** by Sean McKenna and Marina Somers care of McEntee and O'Doherty Solicitors of 20 North Road, Monaghan against the decision made on the 23<sup>rd</sup> day of March, 2022 by Monaghan County Council to grant subject to conditions a permission to Pdraig Keenan and Sarah McGuinness care of Ruxton Architectural Services Limited of Corgreagh, Shercock, County Monaghan in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** To erect a single storey dwelling, detached domestic garage, treatment plant, percolation area, new entrance and all associated site works at Annahagh DED Monaghan rural/Tirkeenan/Latlorcan, Monaghan Town, County Monaghan. Further public notices were received by the planning authority on the 24<sup>th</sup> day of February, 2022 as follows: revised location and design of single storey dwelling, detached domestic garage, treatment plant, percolation area, new entrance and all associated site works.

### **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 detailed design of the proposed development and arrangements for landscaping along site boundaries, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenity of property in the vicinity of the site and 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 24<sup>th</sup> day of February 2022, 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. 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) Prior to the commencement of development, visibility splays of 49 metres shall be provided at the junction of access road and the LP1400. These shall be measured to the nearside road edge in each direction from a point in the centre of the entrance, 2.4 metres from the road edge at a height of 1.05 metres to 2 metres above ground level in both directions. The visibility splays shall be retained in perpetuity.
- (b) Surface water from the site shall not be permitted to drain onto the adjoining public road.

**Reason:** In the interest of traffic safety.

4. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with, the planning authority:
  - (a) arrangements for cut and fill to provide a graded natural topography across the site,
  - (b) arrangements for the disposal of surface water within the site by soakaway, and
  - (c) surface treatment of ROW and driveway to dwelling.

**Reason:** In the interests of visual amenity and water quality.

5. The landscaping scheme shown on the Landscape Masterplan drawing number 054-L01 as submitted to the planning authority on the 24<sup>th</sup> day of February 2022, shall be fully implemented prior to the occupancy of the dwelling or in the first planting season following substantial completion of external construction works, whichever is sooner. 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 the interests of residential and visual amenity.

6. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 15<sup>th</sup> day of September, 2021 and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (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 Environmental Protection Agency document.

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

7. The garage shall be used solely for purposes ancillary to the residential dwelling within the site and not for any separate purpose.

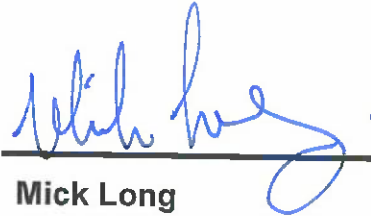
**Reason:** In the interest of residential amenity.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

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 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.

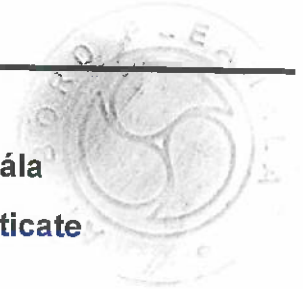
**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



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**Mick Long**

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



Dated this 3<sup>rd</sup> day of August 2023