

**An
Bord
Pleanála**

**Board Order
ABP-313803-22**

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: 21/52397

Appeal by Raphael Farren of Magherard, Malin, Lifford, County Donegal against the decision made on the 19th day of May, 2022 by Donegal County Council to grant permission subject to conditions to Ciaran Kelly and Teresa Mullin care of John McCay of Clonglash, Bunrana, Lifford, County Donegal in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a new detached single-storey dwelling, a new wastewater treatment plant with percolation area along with connection to existing services all at Ballyeghan Lower, Malin, 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.

Reasons and Considerations

Having regard to: -

- (a) the location of the site in a rural area designated by the Donegal County Development Plan 2018-2024 as a Structurally Weak Area,
- (b) the provisions of development plan Policy RH-P-4, which states proposals for new one-off housing within structurally weak rural areas will be considered, subject to compliance with other relevant policies,
- (c) the provisions of National Policy Objective 19 of the National Planning Framework (2018), which states that in rural areas other than those identified as being under urban influence, proposals for single housing in the countryside should be facilitated based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements, and
- (d) the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2005, which state that in structurally weak areas the demand for permanent residential development should be accommodated as it arises, subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity 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 further information received by the planning authority on the 26th day of April 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 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, as amended, 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. Water supply and surface water drainage arrangements, including the disposal of surface water which shall incorporate SuDS measures, shall comply with the requirements of the planning authority for such works and services, details of which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health.

4. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

5. The proposed wastewater drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice – Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.

Reason: In the interest of public health.



6. The vehicular access, including visibility splays, shall comply with the requirements of the planning authority for such works and services, details of which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of traffic and road safety.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and 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 residential amenities of property in the vicinity.

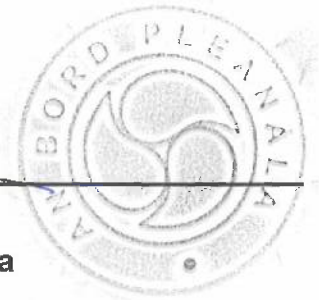
8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.


Liam Bergin

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



Dated this 23 day of August 2023.