



An  
Bord  
Pleanála

**Board Order**  
**ABP-315319-22**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Donegal County Council**

**Planning Register Reference Number: 22/51601**

**Appeal** by John Cavanagh and John McGrath care of MH Associates of Convent Road, Letterkenny, County Donegal against the decision made on the 17<sup>th</sup> day of November, 2022 by Donegal County Council to grant subject to conditions a permission to Aoife and Christopher Hegarty care of Usonia Architects Limited of Ballybrack, Merville, County Donegal in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of a single storey in style dwellinghouse with effluent treatment plant and associated percolation system together with a domestic garage at Carrowhugh, Greencastle, 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

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted the reason for refusal was because the applicant had not provided sufficient evidence to demonstrate compliance with the housing need criteria set out in Policy RH-P-5 of the Donegal County Development Plan 2018-2024. The Board, having considered the Inspectors report at a meeting held on the 25<sup>th</sup> day of January, 2024, decided to request further information from the applicant to provide the applicant with an opportunity to demonstrate that they accorded with the Donegal County Development Plan's rural housing policy. The response to this request was circulated to all parties.

The applicant in their response demonstrated their compliance with Policy RH-P-5. The appellant in their submission (Section 131 dated the 27<sup>th</sup> day of March 2024) raised issues regarding the access to the site, matters that had been raised in the appeal and addressed in the inspector's report and was found not to warrant a refusal. The appellant raised no issues regarding compliance with policy RH-P-5.

The Board having considered the totality of the file decided that the development proposed accorded with the County Development Plan 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, 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. (a) Prior to commencement of development, permanent visibility splays of 50 metres northward and 45 metres southward shall be provided to the nearside road edge at a point 2.4 metres back from road edge at location of vehicular entrance. Visibility in the vertical plane shall be measured from a driver's eye height of 1.05 metres and 2 metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision splays to be calculated and provided as per Figure 2 of Appendix 3 (Development Guidelines and Technical Standards) of Part B of the County Donegal Development Plan 2018-2024 (as varied).
- (b) No vehicular throughway to the local road to the west of the overall landholding shall be constructed. A permanent block or stone wall of minimum height of 450 millimetres high shall be constructed along the entire western site boundary. Any opening or gateway through said wall shall not exceed 1.5 metres wide. The wall shall be constructed prior to first occupation of the dwelling hereby permitted.

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

4. The existing roadside boundary shall be removed along the road frontage of the site for 20 metres either side of the centre of the vehicular entrance and a new dark stained tanalised timber fence, back planted with a hedgerow of species native to the area, shall be located along a line at least five metres from the centre line of the public road. The fence and hedgerow shall incorporate an entrance with a minimum width at road fence to line of gates of 9.15 metres minimum depth from road fence to line of gates of 2.45 metres and a minimum width on line of gates of 4.9 metres as set out in Figure 1 of Appendix 3 (Part B - Development Guidelines and Technical Standards) of the County Donegal Development Plan, 2018-2024 (as varied) and based on the new fence line.

**Reason:** To preserve the amenities of the area and in the interests of traffic safety.

5. All overhead and underground poles and lines shall be set back to the line of the new fence line at the developers expense and no obstructing pole(s) shall be left on the layby.

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

6. Full frontage shall be piped with concrete pipes of a minimum diameter of 300 millimetres in accordance with details, including point of discharge, shall be agreed in writing with the planning authority prior to the commencement of development, following consultation with the Council's Executive Roads Engineer for the Area.

**Reason:** To preserve road drainage.

7. The area between the old and new front boundaries shall be soiled to a height level with the adjacent carriageway and shall fall from the carriageway at a slope of 1:80. The set back shall consist of a minimum of 40 millimetres basecoat tarmacadam on top of a compacted course of blinding on top of a layer of compacted hard-core stone down to the solid.

**Reason:** To preserve the amenities of the area.

8. (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.

9. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. A landscaping plan, including boundary treatment, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

11. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.

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

12. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ )" – Environmental Protection Agency, 2021.

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

13. 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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**Mary Henchy**

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

Dated this 24<sup>th</sup> day of May 2024