

An  
Bord  
Pleanála

## Board Order ABP-315404-22

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Donegal County Council**

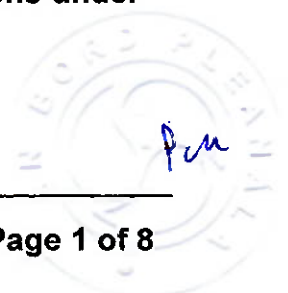
**Planning Register Reference Number: 22/50393**

**Appeal** by Lorraine Thompson care of Gerard Convie Planning Services of Unit F, 15 Lower Main Street, Letterkenny, County Donegal against the decision made on the 1<sup>st</sup> day of December, 2022 by Donegal County Council to grant subject to conditions a permission to Daniel Love care of Eoghan Collins of 172 Quarry Road, Cabra, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Completion of one number dwelling house and all associated site works including on-site sewage treatment at Dundoan Lower, Downings, 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 the National Planning Framework, the Sustainable Rural Housing Guidelines, the Donegal County Development Plan 2018- 2024, and the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the County rural housing strategy. As revised, the proposed dwelling house would be compatible with the landscape and visual amenities of the area and would afford a satisfactory standard of amenity to future residents. Access arrangements to the site would be satisfactory and, given the opportunity to upgrade the existing wastewater drainage arrangements on the site, the applicant's water related proposals would be satisfactory. The proposed development would not adversely affect the integrity of neighbouring European Sites and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board accepted the Inspector's recommendation to grant permission for the development, however, the Board did not agree with the Inspector who recommended permission be granted in respect of the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 11<sup>th</sup> day of October 2022 and by the further plans and particulars received by An Bord Pleanála on the 19<sup>th</sup> day of January 2023. The Board considered that the original plans submitted to the planning authority were acceptable, the Board considered that the location of the development and the proposed reduction in ridge height was not warranted, and the original proposal would not adversely affect the visual amenities of the area. The Board noted the existing dwelling houses within the vicinity of the development site which displayed a variety of types and designs, e.g., bungalows, dormer bungalows, and one-and-a-half-storey dwelling houses and, in their view, would accord with the proper planning and sustainable development of the area.



## **Appropriate Assessment Screening**

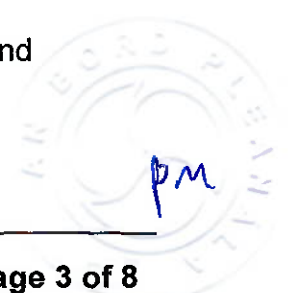
The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, either individually or in-combination with other plans or projects, could have a significant effect on the Mulroy Bay Special Area of Conservation (Site Code: 002159), and Horn Head to Fanad Head Special Protection Area (Site Code: 004194), in view of their sites Conservation Objectives, and that Appropriate Assessment and the submission of a Natura Impact Statement is, therefore, required.

## **Appropriate Assessment**

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites Mulroy Bay Special Area of Conservation (Site Code: 002159), Tranarossan and Melmore Lough Special Area of Conservation (Site Code: 000194), and Horn Head to Fanad Head Special Protection Area (Site Code: 004194) or any other European site, in view of the sites Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project, including proposed mitigation measures in relation to the Conservation Objectives of these European sites.
- Detailed assessment of in-combination effects with other plans and projects;



- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the above mentioned European sites.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged and received by the planning authority on the 25<sup>th</sup> day of March, 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. The proposed development shall be amended as follows:
  - (a) Detailed plans and cross sections of the land drainage scheme proposed for the site shall be prepared.
  - (b) Detailed plans and cross sections of the polishing filter proposed to accompany the wastewater treatment system shall be prepared.
  - (c) Detailed plans and specifications for hard and soft landscaping shall be prepared. Soft landscaping to the site boundaries shall entail the planting of native hedging only. A timescale for the planting of all soft landscaping shall be prepared.

Revised drawings and specifications showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of public health and visual amenity.



3. (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, 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 in the interest of the proper planning and sustainable development of the area.

4. The roof colour of the proposed house shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.

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

5. The external walls shall be finished in neutral colours such as grey or off-white.

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



6. 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.

7. (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 11<sup>th</sup> day of October 2022, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – 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 soakaways 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 Environmental Protection Agency document.

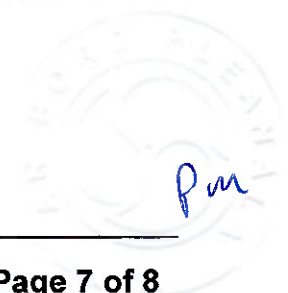
**Reason:** In the interest of public health.

8. 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. The plan shall also incorporate the mitigation measures for the pre-construction and construction phases of the development as outlined in Table 6.1 of the Natura Impact Statement dated February, 2022.

**Reason:** In the interests of public safety, residential amenity, and the environment.

9. (a) Prior to the commencement of occupation of the new dwelling house on the site, the existing chalet-like dwelling and veranda, the accompanying septic tank and percolation area, and storage shed shall be demolished, and removed from the site.
- (b) During the operational phase of the development, the mitigation measure denoted as Item 33 in Table 6.1 of the Natura Impact Statement dated February, 2022 shall be fully implemented.

**Reason:** To prevent disturbance to wildlife.



10. 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.



The image shows a handwritten signature in blue ink that reads "Peter Mullan". The signature is written over a circular official seal. The seal contains the text "AN BORD PLEANÁLA" around the perimeter and a central logo consisting of three interlocking curved shapes.

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**Peter Mullan**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**

Dated this *19th* day of *February*, 2024