



An  
Bord  
Pleanála

## Board Order ABP-315603-23

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Galway County Council**

**Planning Register Reference Number: 22/1127**

**Appeal** by Justin Sheehan of Drumacoo, Kilcolgan, County Galway against the decision made on the 15<sup>th</sup> day of December, 2022 by Galway County Council to refuse permission.

**Proposed Development:** Construction of a dwellinghouse and domestic garage/garden store. New sewage treatment system. All associated site works and services, all at Drumacoo, Kilcolgan, County Galway.

### Decision

**GRANT** permission for the above proposed development 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 within an area designated as being under strong urban influence in the Galway County Development Plan 2022-2028, and to the policies and objectives and the development standards in the development plan, it is considered that the applicant has substantiated a Rural Housing need. The Board decided that, due to the applicant's unique and specific personal circumstances, the applicant has demonstrated compliance with policy objective RH2, specifically RH2 1(c). The proposed development, subject to compliance with the conditions set out below, would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The proposed 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 received by An Bord Pleanála on the 18<sup>th</sup> day of January, 2023, 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 proposed 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. Prior to commencement of development, boundary treatment details shall be submitted for the written agreement of the planning authority.

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

4. (a) The proposed entrance shall be as set out within the Site Layout Plan drawing submitted to the planning authority on the 21<sup>st</sup> day of October, 2022. Final details of the roadside boundary setback within the red line application site boundary, and the section of walled boundary within the family landholding south-east of the site, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The boundary setback and entrance details, as agreed with the planning authority, shall be completed prior to construction of the house.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

5. The construction of the proposed 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 proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of public safety and residential amenity.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

7. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

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

8. (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 21<sup>st</sup> day of October, 2022 and in accordance with the requirements of the document entitled: Code of Practice - Wastewater Treatment and Disposal Systems Serving Rural Dwellings (p.e .≤ 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 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 raised percolation area is constructed in accordance with the standards set out in the EPA document.

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

- 9 The proposed domestic garage shall be used for domestic storage purposes ancillary to the proposed dwelling and shall not be used for any commercial or habitable use without a prior grant of planning permission.

**Reason:** In the interest of proper planning and sustainable development.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

11. 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 *14<sup>th</sup>* day of *February* 2024.