



An
Bord
Pleanála

Board Order ABP-315642-23

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: 22/51809

Appeal by Patrick Boyle of Corgary, Ballybofey, County Donegal against the decision made on the 21st day of December, 2022 by Donegal County Council to grant subject to conditions a permission to Margaret Breen care of McCullagh Architecture and Surveying Limited of Glenfinn Road, Ballybofey, County Donegal in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of existing dwellinghouse and construction of a replacement dwellinghouse, detached domestic garage, septic tank/sewage treatment system and all associated site development works, all at Kinletter, Ballybofey, Lifford, 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 for Planning Authorities, and the Donegal County Development Plan 2018-2024, it is considered that the applicant has a local rural housing need and that, subject to compliance with the conditions set out below, the proposed replacement dwellinghouse on the site would be appropriate, would be acceptable in terms of visual amenity, and would be acceptable in terms of traffic safety and convenience. The proposed development 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 the planning authority on the 6th day of December, 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 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 in the interest of the proper planning and sustainable development of the area.

3. Prior to commencement of development, survey drawings and a photographic record of the existing dwellinghouse shall be made and submitted to the planning authority.

Reason: In order to establish a record of the dwelling house as an example of the county's "Specific Instance" housing scheme.

4. Prior to commencement of development, a scheme for the proposed domestic entrance and accompanying sightlines shall be submitted to, and agreed in writing with, the planning authority. This scheme shall comprise detailed drawings of the site's proposed south-western boundary treatment to a scale of 1: 50, and it shall include the domestic site entrance and sightlines depicted on drawing number bmc/jm/22/115/101(b). Any overhead poles shall be set back in line with this boundary treatment.

Reason: In the interest of road safety.

5. The proposed garage shall only be used as a domestic garage and shall be ancillary to the dwellinghouse.

Reason: In the interest of clarity.

6. Prior to commencement of development, a comprehensive scheme showing land drainage and stormwater drainage proposals for the site shall be submitted to, and agreed in writing with, the planning authority.

Reason: To prevent flooding and pollution.

7. (a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and 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) Treated effluent shall be discharged to a raised percolation area which shall be provided 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.

- (c) 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 raised percolation area is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

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

Reason: In the interest of visual amenity.

9. All public service cables for the proposed development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

10. The site shall be landscaped using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) the augmentation of existing retained hedgerows along the boundaries of the site with native species of hedging, and

(b) the planting of trees of native species at three-metre intervals along the north-western and south-eastern boundaries of the site and in the north-eastern and south-eastern corners.

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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

11. Prior to commencement of development, the developer shall engage a suitably qualified person to:

- (a) Conduct a survey to determine, map and mark on the ground any Japanese Knotweed on the site.
- (b) If Japanese Knotweed is found, the developer shall draw up and implement a control programme for the elimination of any Japanese Knotweed from the site. The control programme shall include a treatment methodology, a timescale, measures to prevent spread, and disposal arrangements.
- (c) Prepare a validation report confirming that the remediation has been effective and that the site is free of Japanese Knotweed.

The survey, any control programme, and any validation report shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to satisfactorily deal with this invasive species.

12. 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. The application of any indexation required by this condition 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.

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 02nd day of April 2024.