

Planning and Development Acts 2000 to 2022

Planning Authority: Westmeath County Council

Planning Register Reference Number: 22/524

Appeal by Gary Daly and Leone Garry of Mulliganstown, Delvin, County Westmeath against the decision made on the 9th day of February, 2023 by Westmeath County Council to grant subject to conditions a permission to Aoife Duffy and Thomas McCabe care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construct a two-storey dwelling with detached domestic garage and store, install a proprietary wastewater treatment system and all associated site development works, all at Mulliganstown, Delvin, County Westmeath.

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

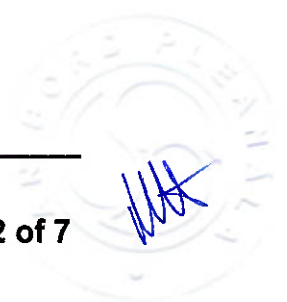
Having regard to the provisions of the Westmeath County Development Plan 2021 - 2027, to the nature, scale and layout of the proposed development, in particular the separation distances from the existing and proposed dwellings, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity, would be acceptable in terms of traffic and public health, 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. The dwelling granted under this permission shall be in accordance with the original two-storey dwelling proposal submitted with the application to the planning authority on the 25th day of October, 2022.



Reason: In the interests of clarity and the visual amenities of the area.

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

4. The construction of the site entrance, including the provision of adequate sightlines in both directions from the entrance, the treatment of the area between the entrance and the edge of the public road, and the surface water drainage proposals for the front of the site, shall comply with the requirements of the planning authority for such works. Prior to commencement of development, the applicant shall submit to, and agree in writing with, the planning authority, detailed design proposals to comply with this condition.

Reason: In the interest of traffic safety.

5. (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 drive to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference shall be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

6. (a) The on-site wastewater treatment system proposed shall be constructed in accordance with the recommendations of the Environmental Protection Agency's Code of Practice – Domestic Wastewater Systems (EPA 2021). Prior to installation the planning authority may, in the interests of public health and to facilitate best practice, agree in writing certain EPC compliant variations to the wastewater treatment system approved under the application. Such an agreement shall be placed on file and deemed officially substitute/vary the original granted system. Certification that the complete wastewater treatment unit and polishing filter have been satisfactorily installed in accordance with the Environmental Protection Agency's 'Code of Practice Domestic Wastewater Treatment Systems (EPA, 2021) shall be submitted to the planning authority prior to occupation of the dwelling. The certificate shall be completed by a suitability qualified indemnified person and shall include a site specific 'as constructed' layout plan and cross-sectional drawing through the effluent treatment system and associated percolation area. Proof of indemnification insurance should be submitted with the certificate.
- (b) The complete on-site wastewater treatment system shall be installed and maintained in accordance with the manufacturer's instructions.

Reason: In the interest of public safety.

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

Reason: In the interest of public health.

8. The site shall be landscaped in accordance with the drawings received by the planning authority on the 18th day of January, 2023. Any plants/ trees which die, are removed or become seriously damaged within a period of five years of the completion of the dwelling, shall be replaced within the next planting season with others of similar size, 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.

9. 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.

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. 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.

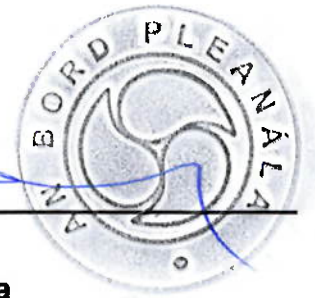
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Martina Hennessy

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 14th day of February 2024.