

An
Bord
Pleanála

Board Order
ABP-316492-23

Planning and Development Acts 2000 to 2022

Planning Authority: Louth County Council

Planning Register Reference Number: 23/61

Appeal by Robert and Ann-Marie Flynn care of McNamee Chartered Building Surveyors Limited of Bantry House, Jocelyn Place, Dundalk, County Louth against the decision made on the 31st day of March, 2023 by Louth County Council to refuse permission for the proposed development.

Proposed Development: Permission for a new dwellinghouse, domestic garage and effluent treatment plant with percolation area and all associated site works all at Lower Lislea, Omeath, County Louth.

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 Louth County Development Plan, 2021-2027 and all material considerations, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would provide an acceptable standard of residential amenity for the prospective residents, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation, drainage proposals, or otherwise. The proposed development 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. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

- 4. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – The 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 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 in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

- 5. Details of the treatment of the splayed entrance, gates, driveway, road boundary setback, roadside area and replacement hedge shall be as submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety and visual amenity.

- 6.
 - (a) The carriageway of the public road shall not be raised, lowered or otherwise altered at its junction with the access driveway to the proposed dwelling.
 - (b) The gradient of the access driveway shall not exceed 2% for the first five metres adjacent to the carriageway of the public road.
 - (c) No development shall commence on site until the visibility sightline splays at the entrance have been provided and associated works carried out.
 - (d) Where it is necessary to remove hedges, banks, and/or stone walls to provide adequate visibility, the new boundary wall, fence, and/or hedge shall be located behind the visibility splay and shall be a minimum of three metres from the edge of the road carriageway.

- (e) The area within the visibility splay shall be cleared to provide a level surface no higher than 250 millimetres above the level of the adjoining carriage way and shall be retained and kept clear thereafter.
- (f) All necessary measures shall be taken by the developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the developers own expense.
- (g) The developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of Louth County Council or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.

Reason: In the interest of traffic safety and to protect the amenities of the area.

- 7. The site shall be landscaped, using only indigenous deciduous trees and hedging species, within the first planting season following occupation of the dwelling hereby permitted as follows:
 - (a) the establishment of a hedgerow to replace any vegetation removed to facilitate the site access, and adjacent to the site access boundaries; and
 - (b) the establishment of a hedgerow to the rear boundaries of the site.

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.

8. 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 interests of visual and residential amenity.

9. Details of the finished site levels shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and carried out and retained in accordance with the agreed details.

Reason: In order to allow the planning authority to assess the impact of these matters on the visual amenity of the area before development commences and in the interest of orderly development.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the 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 the 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.



Mary Cregg

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

Dated this 12th day of April 2024