

An  
Bord  
Pleanála

## Board Order ABP-317165-23

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Donegal County Council**

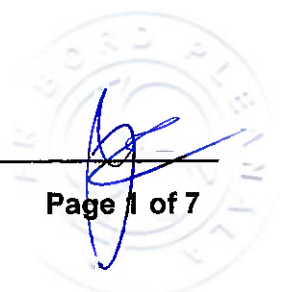
**Planning Register Reference Number: 23/50319**

**Appeal** by James McLaughlin of Terargus, Churchill, Letterkenny, County Donegal against the decision made on the 5<sup>th</sup> day of May, 2023 by Donegal County Council to grant subject to conditions a permission to Niamh Nic Aoidh care of Trevor Robb of Killyclugg, Letterkenny, County Donegal in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a dwellinghouse, wastewater treatment system and associated site works, all at Tirargus, Churchill, Letterkenny, 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 relevant provisions of the National Planning Framework, the Sustainable Rural Housing Guidelines for Planning Authorities, and the Donegal County Development Plan 2018-2024, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the planning authority's rural housing policies, including policies RH-P-1, RH-P-2 and RH-P-3, would not seriously injure the visual amenities of the area, would afford a satisfactory standard of amenity for future residents, and 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, 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. The proposed development shall comply with the following requirements:
  - (a) Detailed plans and cross sections of the area proposed to accommodate the wastewater treatment system shall be prepared.
  - (b) Detailed plans of an on-site surface water drainage scheme incorporating a soakaway shall be prepared. This scheme shall serve all the hard surfaces created by the proposed development.

- (c) Detailed plans of the roadside boundary treatment shall be prepared. These plans shall clearly set out drainage arrangements, the provision of grass verges, and any temporary fencing. The plans shall also clearly set out the layout of the site entrance, including its pillars, wing walls, drainage interceptor, and any gate(s) or cattle grid that may be proposed.

The above-mentioned plans shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interest of public health, good water management, 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) above 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 of the proposed house shall be finished in nap/smooth plaster finish and shall be painted in a neutral colour such as white or off-white.

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

6. 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 and surface water management.

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

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

8. 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.

9. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details received by the planning authority on the 15<sup>th</sup> day of March, 2023, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ )" – 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 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 EPA document.

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

10. Prior to commencement of development, the sightlines shown on the submitted site layout plan shall be established. These sightlines shall have x and y dimensions of 2.4 metres and 70 metres, and no item shall intrude within them above 1.05 metres in height.

**Reason:** In the interest of road safety.

11. 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, residential amenity, and the environment.

12. 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 establishment of a hedgerow along the eastern and western boundaries of the site, and the re-establishment of a hedgerow adjacent to the northern boundary behind the sightlines on either side of the access point to the site, and

(b) the planting of trees in the south-eastern portion 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 proposed development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

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

Dated this 13<sup>TH</sup> day of February 2024.