

An  
Bord  
Pleanála

## Board Order ABP-317286-23

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Donegal County Council**

**Planning Register Reference Number: 22/52049**

**Appeal** by Colm and Maureen Hefferon and others care of Michael Halligan Planning Consultants of Seapoint House, Balbriggan, County Dublin against the decision made on the 11<sup>th</sup> day of May, 2023 by Donegal County Council to grant subject to conditions a permission to James and Catherine Osborne care of McCabe Architects of Ardeskin, Old Laghey Road, Donegal Town, County Donegal in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of an extension and renovations of existing barn (former hedge school) to create a private house with detached store. Provision of new vehicular access, new effluent treatment system with percolation area, and all associated site works, all at Ballysaggart Townland and Ballyederlan Townland, Dunkineely, 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 County Donegal Development Plan 2018-2024, and in particular Policy RH-P-6 (Refurbishment of existing dwellings/buildings), it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with this policy, would be compatible with the site's landscape context and the visual amenities of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment: Stage 1:**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the St. John's Point Special Area of Conservation (Site Code: 000191) is the only European Site in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

## **Appropriate Assessment: Stage 2:**

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on the St. John's Point Special Area of Conservation (Site Code: 000191) in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Site,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Site.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

## 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 17<sup>th</sup> day of April, 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. The proposed development shall be amended as follows:
  - (a) Detailed plans of the exact siting of the percolation area proposed to accompany the wastewater treatment system shall be prepared. Such siting shall reflect the separation distances cited in Table 6.2 of the EPA's Code of Practice for Domestic Waste Water Treatment Systems (March 2021).
  - (b) Detailed plans of the roadside boundary treatment shall be prepared. These plans shall contain explicit drainage arrangements, the provision of a sealed hard surface to accompany the carriageway, and the type and height of walls, fences, and gate proposed.
  - (c) Detailed plans of a land drainage scheme for the site shall be prepared.
  - (d) Detailed plans of the extent and layout of any proposed garden area.

Revised drawings and specifications showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health, good water management, and visual amenity.

3. 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. It shall also incorporate the mitigation measures set out in the applicants' "Method Statement of Proposed Works incorporating Mitigation and Precautionary Measures to Mitigate against any Impact upon Surface Waters/Water Quality at St. John's Point SAC" and as per the NIS Mitigation and Precautionary Measures as per the Natura Impact Statement received by the planning authority on the 21<sup>st</sup> day of December, 2022.

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

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

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

5. 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 and surface water management.

6. Prior to commencement of development, the developer shall enter into a water connection agreement(s) with Uisce Eireann.

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

7. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details received by the planning authority on the 21<sup>st</sup> day of December, 2022, and 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. No system other than the type proposed in the submissions shall be installed, unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and, thereafter, shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwellinghouse and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwellinghouse, 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 polishing filter is constructed in accordance with the standards set out in the EPA document.

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

8. Prior to commencement of occupation of the dwellinghouse, the sightlines shown on the submitted site layout plan shall be established and, thereafter, retained for the duration of the occupation of the dwellinghouse. 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.

9. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001, as amended, or any statutory provision modifying or replacing them shall not be carried out within the curtilage of the proposed dwellinghouse without a prior grant of planning permission.

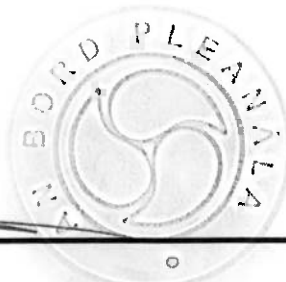

**Reason:** In order to afford the planning authority the opportunity to control such development in the interest of visual amenity.

10. 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.

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.



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

Dated this 17<sup>th</sup> day of March, 2024.