

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: 23/50115

Appeal by Moira and Alan Harley of The Gallery, Figart, Dunfanaghy, County Donegal against the decision made on the 1st day of June, 2023 by Donegal County Council to grant subject to conditions a permission to Darren Tease care of Michael Friel Architects and Surveyors Limited of Creeslough, Letterkenny, County Donegal in accordance with plans and particulars lodged with the said Council.

Proposed Development: Erection of two number apartments with connection to the existing public sewer including all other associated site development works at Hornhead Road, Dunfanaghy, 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 provisions of the Donegal County Development Plan 2018-2024, the location of the proposed development site within the town boundary of Dunfanaghy which is identified in the development plan as a Layer 2B Strategic Town where regeneration and renewal are prioritised, and to the emphasis placed on compact growth in the National Planning Framework 2040, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenity of property in the vicinity or have an adverse effect on road safety or public health. 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, as amended by the further plans and particulars received by the planning authority on 12th day of May, 2023 and by the site layout plan (drawing number 02 (FI Revision)) received by An Bord Pleanála on the 21st day of July 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 the 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Corrugated tin shall not be used. The roof and porticos shall be clad in slates or tiles and the walls shall be rendered.

Revised drawings, to include elevation drawings to a scale not less than 1:100, 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 visual amenity.

3. (a) The proposed dwelling units when completed shall be used as the principal place of residence with the written consent of the planning authority by any person(s) with a need for a dwelling house and shall not be used as holiday homes or for any other purpose without the prior grant of planning permission.
- (b) The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act 2000 on the first application being made for written consent per paragraph (a) above, and,
- (c) Within two months of the occupation of the proposed dwellings, the applicant shall submit to the planning authority written confirmation of the person(s) occupying the dwelling in accordance with paragraph (a) and the date of commencement 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 restrict the use of the dwellings to permanent place of residence only.

4. (a) The internal road network serving the proposed development including junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed standards of the planning authority for such road works.
- (b) Prior to the commencement of development, a revised site layout plan to a scale not less than 1:250 shall be submitted to, and agreed in writing with, the planning authority showing compliance with the following:
 - (i) a footpath 1.8 metres in width running along the front elevation of the proposed building with provision for radii at the entrances to the parking bays, and
 - (ii) the proposed footpath abutting the proposed southern garden/patio area shall be at least 1.8 metres wide.
- (c) The dwelling units shall not be occupied until footpaths have been constructed in strict conformity with the agreed site layout plan.

Reason: In the interests of amenity and of traffic and pedestrian safety.

5. 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 with the proposed development.

Reason: In the interests of public safety and residential amenity.

6. The construction of the 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 development, including:
- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
 - (b) location of areas for construction staff facilities,
 - (c) details of site security fencing and hoardings,
 - (d) details of on-site car parking facilities for site workers during the course of construction,
 - (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
 - (f) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
 - (g) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public/estate road or footpath during the course of site development works,
 - (h) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
 - (i) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil, and

- (j) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

7. Site development and construction works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0830 and 1500 hours on Saturdays and not at all on Sundays and public holidays.

Reason: To protect the residential amenity of properties in the vicinity.

8. No external lighting shall be installed on the site except in accordance with a scheme which will be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenity of neighbouring properties.

9. Prior to the commencement of development:

- (a) the developer shall enter into a water and wastewater connection agreement with Uisce Éireann, and
- (b) any proposals to build over or divert existing water or wastewater services shall be submitted to, and agreed in writing with, Uisce Éireann.

Reason: In the interest of public health.

10. Water supply and drainage arrangements shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health.

11. Prior to the commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of roads, sewers, watermains, drains, footpaths and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The security to be lodged shall be as follows -

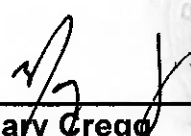
- (a) an approved insurance company bond in the sum of €10,000 (ten thousand euro), or
- (b) a cash sum of €10,000 (ten thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or

- (c) such other security as may be accepted in writing by the planning authority.

Reason: To ensure the satisfactory completion of the development.

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 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 Gregg

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

Dated this 28th day of March 2024.