



An  
Bord  
Pleanála

Board Order  
ABP-317826-23

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Leitrim County Council**

**Planning Register Reference Number: 22223**

**APPEAL** by Marie Keirins and others care of 58 Melvin Fields, Kinlough, County Leitrim against the decision made on the 25<sup>th</sup> day of July, 2023 by Leitrim County Council to grant, subject to conditions, a permission to Marion and James Kelly care of Francis Devitt Planning and Design Engineers of Main Street, Drumkeerin, County Leitrim in accordance with the plans and particulars submitted to the said Council.

**Proposed Development:** (a) to erect six number one-bed chalets; (b) to erect a bike shed; (c) to construct a playground area; (d) to connect to the existing public sewer mains; (e) to construct a new site entrance and all ancillary works at Gubacreeny, Kinlough, County Leitrim. The proposed development was revised by further public notices received by the planning authority on the 14<sup>th</sup> day of June 2023.

**Decision**

**REFUSE** permission for the above proposed development in accordance with the reasons and considerations set out below.

## Reasons and Considerations

1. Having regard to the provisions of the Leitrim County Development Plan 2023-2029 and in particular policy TOUR INF POL4 which facilitates tourist accommodation at suitable locations throughout the county, it is considered that the location of the site, outside the settlement envelope of Kinlough within open countryside and at a remove from existing tourism/recreation facilities within Kinlough, would not comprise a suitable location and would be contrary to the provisions of this policy. Furthermore, the proposed development would be contrary to objective TOUR INF OBJ 2 of the development plan which facilitates the development of tourist accommodation along established walking/hiking routes and adjacent to existing tourism/recreation facilities, subject to satisfying normal planning criteria. The proposed development would, therefore, be contrary to the provisions of the Leitrim County Development Plan 2023-2029 and would set an undesirable precedent for further developments of this nature in unsuitable locations. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The development as proposed is dependent upon connections to the public foul sewer network, public surface water network and the public watermain which are located on third party lands and within the control of a third party which, while comprising existing foul and surface water sewer infrastructure, are not taken in charge and the consent to connect to same has not been provided. The Board considered that there is an absence of certainty that the foul waste and surface water generated by the proposed development could be managed and disposed of appropriately, or that water to service the development could be provided within the context of the permission sought given that connection to same is within the control of a third party who has not provided the requisite consent. Therefore, if permitted, the development as proposed would be prejudicial to public health due to the absence of

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certainty in respect of connections to the public foul waste network, surface water and public watermain. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board did not agree with the Inspector that the principle of the proposal would be acceptable based on the proposal to provide a pedestrian connection to facilitate access to the village centre. The provision of pedestrian connectivity is one consideration in establishing the suitability or otherwise of the site for such a use. The Board noted that the site is at a considerable remove from the main village centre and from the shores of Lough Melvin which are the primary tourist facilities and assets in the settlement and also noted the extent of zoned and undeveloped lands within the settlement which would be suitable for a development of the type proposed. The Board also considered that the site is not located along established walking/hiking routes or adjacent to existing tourism/recreation facilities. The Board concluded, contrary to the opinion of the Inspector and the planning authority that the principle of the proposed development on the site would not be acceptable.

Furthermore, the Board did not agree with the Inspector that the arrangements proposed for the future connection of the development to the public foul and surface water sewer systems was satisfactory as it relies upon connections to infrastructure which requires the consent of third parties which has not been demonstrated. The Board did not agree with the Inspector that these matters relating to the ownership of the infrastructure were civil matters and not matters which the Board can consider. The ability of a development to be serviced is a central planning consideration and if a development has not been provided with consent to connect to services which can be delivered then the absence of certainty in this regard is a material consideration in the decision-making process. The Board disagreed with the Inspector and the Planning Authority in their belief that that there is no reason to assume that consent for connection to public infrastructure will not be forthcoming on the

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basis that concern was provided to connect to the existing footpath. Again, the absence of certainty in this regard is a central consideration and cannot be addressed by condition as proposed by the Inspector and planning authority. The Board did however agree with the Inspector that the inclusion by the planning authority within condition 6 of the potential installation of a wastewater system by condition was entirely inappropriate as such would require a separate grant of permission.



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**Una Crosse**

**Member of An Bord Pleanála**

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

Dated this *23<sup>rd</sup>* day of *May* 2024.