

An
Bord
Pleanála

Board Order
ABP-318934-24

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: 2351430

Appeal by Charles O'Donnell of Dumfries, Buncrana, County Donegal against the decision made on the 21st day of December, 2023 by Donegal County Council to grant subject to conditions a permission to Conor McDaid and Chelsea Carey care of Patrick Canning and Associates of Ballylawn, Manorcunningham, County Donegal in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a dwelling house with connection to proposed septic tank and percolation area on site, at Gulladoo, Moville, 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

The applicants have adequately demonstrated that they have a functional social requirement to live in the area, in compliance with the criteria as set out in Policy RH-P-5 of the County Donegal Development Plan 2018-2024 (as varied). Furthermore, it is considered that, subject to compliance with the conditions as set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and would not be prejudicial to public health, noting in particular that it has been adequately demonstrated that the site is suitable for the disposal and treatment of effluent. The proposed house design is in accordance with design guidance as set out in the County Donegal Development Plan 2018-2024 (as varied) noting in particular that the orientation of the proposed dwelling is in accordance with Section 3.3 'Orientation' Part B Appendix 3 of the Plan. The proposed dwelling would not detract from the visual or residential amenities of the area, nor would there be any significant adverse impacts on the character of the landscape. 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 submitted on the 6th day of December 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 development shall be carried out and completed in accordance with the agree 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 dwelling 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. 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. 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) Prior to the commencement of development, details of the proposed boundary to the western (roadside) frontage and access point shall be submitted to for agreement in writing with the planning authority.
- (b) Site access arrangements, and the provision and maintenance of visibility splays, shall comply with the requirements of the planning authority for such works.

Reason: In the interest of road safety.

5. (a) A hedgerow of semi-mature species native to the area shall be planted along the eastern site boundaries within the first planting season following commencement of development.
- (b) In addition, all landscaping works shall be completed, within the first planting season following commencement of development, in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 6th day of December 2023. Any trees and hedging which die, are removed or become seriously damaged or diseased, within a period of three 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 the interest of biodiversity and the visual and residential amenity of the area.



6. (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.

7. 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.



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

Dated this 10th day of June 2024.