

An
Bord
Pleanála

Board Order ABP-319257-24

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: 23/52002

Appeal by Brighidín Hawke of Croaghan, Tamney, Fanad, County Donegal against the decision made on the 22nd day of February, 2024 by Donegal County Council to grant permission subject to conditions to Ann Marie Shields care of Kenneth McCorkell Engineering and Design of Drumlackagh, Carrigart, County Donegal in accordance with plans and particulars lodged with the said Council.

Proposed Development: Erection of dwelling house with septic tank and domestic garage all at Croghan, Rosnackill, 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

The proposed development in an area designated as a 'Structurally Weak Rural Area' in the Donegal County Development Plan 2024-2030 is compliant with Policy RH-P-3 as set out in the development plan. The Board 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 that it has been adequately demonstrated that the site is suitable for the disposal and treatment of effluent. 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, 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 agreed 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: In the interest of proper planning and sustainable development of the area.

3. Prior to commencement of development, permanent visibility splays of 50 metres shall be provided in each direction to the nearside road edge at a point 2.4 metres back from road edge at location of vehicular entrance.

Reason: In the interest of traffic safety.

4. The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site. Details of the proposed replacement front boundary shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of biodiversity and visual amenity.

5. The entrance walls and pillars shall be setback 6.5 metres from centre of road.

Reason: In the interest of traffic safety and to preserve the amenities of the area.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of Uisce Éireann

and the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road. No building shall occur within 10 metres of the watermains pipeline which traverses through the site.

Reason: In the interest of traffic safety, public health and orderly development.

7. 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.

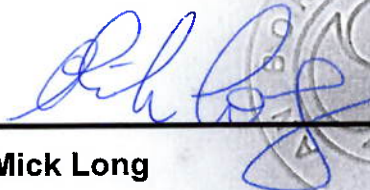
Reason: In the interest of visual amenity.

8. (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.

9. 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.



Mick Long

Member of An Bord Pleanála

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

Dated this 13th day of January 2025