

An
Bord
Pleanála

Board Order ABP-320157-24

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: 23/51645

Appeal by Kenneth and Norah Stewart of 55 Stranford Way, Norbury, England against the decision made on the 20th day of June, 2024 by Donegal County Council to grant subject to conditions a permission to Thomas Alcorn care of Kenneth McCorkell of Drumlackagh, Carrigart, County Donegal in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a dwellinghouse with septic tank and domestic garage, including all associated site development works, all at Lurgabrack, 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 Rural Housing Policy, as set out in Section 6.3 of the County Donegal Development Plan 2024-2030, and specifically Policy RH-P-2 which relates to Areas Under Strong Holiday Home Influence, the established pattern of development in the area, and the nature, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was satisfied, on the basis of the information submitted by the applicant at further information stage, that the applicant adequately demonstrated compliance with Policy RH-P-2 of the County Donegal Development Plan 2024-2030 having regard to an established social housing need based on the applicant's current residential status and immediately family connections with this rural area.

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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 27th day of May, 2024, 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. (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, as amended, 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.

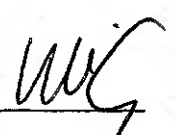
Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. The use of the proposed garage shall be for private domestic use only, solely for purposes incidental to the enjoyment of the dwellinghouse, and shall not be used for commercial, trade or industrial purposes or human habitation.

Reason: In the interest of residential amenity and in the interest of the proper planning and sustainable development of the area.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five 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 visual amenity.



5. (a) Details of the proposed vehicular access to the site, with visibility splays of at least 50 metres in each direction, shall be submitted for the written agreement of the planning authority prior to commencement of development.
- (b) The existing front boundary shall be retained except to the extent that its removal is necessary to provide for the entrance to the site and to ensure adequate lines of sight at the proposed entrance. Set back sections of roadside boundary shall be constructed using dry stone walling to match the existing roadside boundary.

Reason: In the interest of traffic safety and visual amenity.

6. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays, inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenities of property in the vicinity.

7. (a) All details of external finishes shall be submitted for the written agreement of the planning authority prior to commencement of development.
- (b) The roof colour of the proposed house and garage shall be blue-black, black or dark-grey.
- (c) All external rendered finishes shall be neutral in colour, such as grey or off-white.

Reason: In the interest of visual amenity.

8. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
- (b) The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.
- (c) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to the existing roadside or land drainage.

Reason: In the interest of traffic safety and to prevent flooding or pollution.

9. Prior to commencement of development, the developer shall enter into a connection agreement with Uisce Éireann to provide for a service connection to the public water supply.

Reason: In the interest of public health and to ensure adequate water facilities.

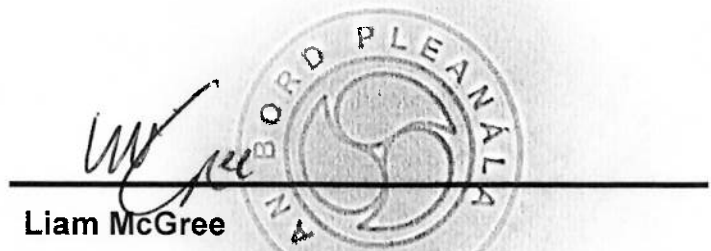
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10. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with the planning application and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.
- (b) Treated effluent from the wastewater treatment system shall be discharged to a percolation area/polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.
- (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.

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

Dated this 08 day of JANUARY 2025.