

An  
Bord  
Pleanála

## Board Order ABP-321003-24

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Donegal County Council**

**Planning Register Reference Number: 23/51979**

**Application for Leave to Appeal** against the decision of the planning authority by Martina Quinn of Kinnalargy, Downings, County Donegal having an interest in land adjoining the land in respect of which Donegal County Council decided on the 13<sup>th</sup> day of September, 2024 to grant subject to conditions a permission to Barry McBride and Sandra Sheerin care of KAD Architectural of Kilmacrenan, County Donegal in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a dwellinghouse with domestic garage, wastewater treatment system and all other associated site development works, all at Kinnalargy, Downings, County Donegal, as revised by the further public notices received by the planning authority on the 29<sup>th</sup> day of July, 2024 which included a Natura Impact Statement.

### Decision

**REFUSE** leave to appeal under section 37 (6) of the Planning and Development Act 2000, as amended, based on the reasons and considerations set out below.

## Reasons and Considerations

It is considered that:

- (i) while it has been shown that the development, in respect of which a decision to grant permission has been made, will differ materially from the development as set out in the application for permission by reason of condition number 1 (relocation of the site entrance off the local road), imposed by the planning authority to which the grant is subject,
- (ii) it has not been shown that the imposition of this condition will materially affect the applicant's enjoyment of the land adjoining the land in respect of which it has been decided to grant permission or reduce the value of the land.

The Board considered the totality of the documentation on file and the submission from the applicant for leave to appeal. Specifically, the Board noted that the applicant for the proposed development revised the location of the proposed site entrance at further information stage. While this would technically be materially different to the location, as set out in the original planning application, the Board noted and agreed with the assessment of the planning authority, as set out in its report and recommendation signed the 9<sup>th</sup> day of September, 2024 (Executive Planner) and the 10<sup>th</sup> day of September, 2024 (Senior Executive Planner), in response to the further information received that, 'it is noted that the applicant has relocated the proposed site entrance approximately 40 metres south of where originally proposed. This has no material change on the overall application and does not affect third parties.'



It is also noted that from the application documentation and the assessment of the planning authority that no issue of material effect on the enjoyment of any adjoining lands or reduction in value would arise as a consequence of the proposed site entrance, regardless of whether it was as originally proposed, or as repositioned at further information stage. Furthermore, no other element of the proposed development materially differs from that originally proposed by reference to any other condition attached to the decision to grant permission.



**Chris McGarry**

**Member of An Bord Pleanála**

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

Dated this  day of  2024.