

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Cork County

Planning Register Reference Number: 15/06970

An Bord Pleanála Reference Number: PL 04.247607

APPEAL by Dominic and Margaret McEntee of 45 Annabella Park, Mallow, County Cork and by Canonbridge Limited care of McCuthcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 25th day of October, 2016 by Cork County Council to grant subject to conditions a permission to the said Canonbridge Limited in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: A residential development comprising the construction of 88 number dwelling houses and all associated ancillary development works including vehicular access, parking, footpaths, foul and stormwater drainage (including the provision of a surface water attenuation tank), landscaping and amenity areas at Annabella (townland), Mallow, County Cork.

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.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development, to the existing and permitted pattern of development in the vicinity of the site and to the residential zoning of the site, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would not adversely affect the character of the area, would be acceptable in terms of access and traffic safety and would not, therefore, be contrary to the proper planning and sustainable development of the area.

With respect to condition number 60 of the planning authority's notification of decision, the Board considered that the planning authority has not demonstrated that there are specific exceptional costs in terms of the provision of recreation and amenity facilities arising from the proposed development that would benefit the proposed development in this instance. Therefore, it is considered that the special financial contributions as proposed by the planning authority for such facilities does not come within the scope of section 48(2)(c) of the Planning and Development Act, 2000, as amended, and accordingly, would be unwarranted.

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 14th day of January 2016, the 11th day of May, 2016, the 9th day of August, 2016 and the 29th day of September, 2016, 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. House number 45, type B1 as shown on drawing number P-S-003, submitted to the planning authority on the 9th day of August, 2016, is not permitted.

Reason: Given its layout, House number 45 would be likely to lead to overlooking of properties to the east and would, therefore, seriously injure the amenities of property in the vicinity.

3. This permission authorises 85 number residential units only in accordance with Site Layout Plan Option 2, drawing number P-S-003, submitted to the planning authority on the 9th day of August, 2016, as amended by above condition number 2. Each proposed residential unit shall be used as a single dwelling unit.

Reason: In the interest of development control.

4. Access to the reservation area to the south of the site, as shown in Option 2 on the Site Layout Plan, drawing number P-S-003, submitted to the planning authority on the 9th day of August, 2016, shall be restricted, by way of a 2.5 metre high solid gate, for maintenance access purposes from authorised personnel only.

Reason: In the interest of residential amenity.

5. Details of the materials, colours and textures of all the external finishes to the proposed residential units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Prior to commencement of development, the developer shall amend the layout in the following respects, or otherwise as agreed in writing with the planning authority:

- (1) the children's neighbourhood play area within the centre of the site shall be increased in size from 306 square metres to 400 square metres and shall comprise a local play area; and

- (2) two neighbourhood play areas, each comprising 100 square metres, shall be provided within the scheme. A revised site layout plan, making provision for the above requirements, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The play areas shall be provided in accordance with the planning authority's specification for play areas.

Reason: In the interest of residential amenity.

7. The windows serving all bathrooms, en-suites and walk-in wardrobes shall be permanently fitted and maintained with obscure or stained glass. The use of film is not permitted.

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

8. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development. The agreed lighting system shall be implemented and operational, before each agreed phase of the proposed development is made available for occupation.

Reason: In the interest of safety and visual amenity.

9. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

10. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 9th day of August, 2016. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas and their continued use for this purpose.

11. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, full details of the proposed boundary treatment including rear and party dividing boundary treatments.

Reason: In the interest of visual and residential amenity.

12. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the planning authority for such works.

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

13. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

14. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

15. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

16. A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the on-going operation of these facilities for each house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, and in particular recyclable materials in the interest of protecting the environment.

17. Childproof fencing shall be provided along river/stream banks. Details, including height, material and location, shall be submitted to, and agreed in writing with, the planning authority before any development commences, or, at the discretion of the planning authority, within such further period or periods of time as it may nominate in writing.

Reason: In the interest of public safety.

18. Prior to the commencement of development, the riparian buffer area shall be fenced off. No equipment or materials shall be stored inside this buffer, and no vegetation including trees shall be removed from within this area. The fence shall be maintained until the conclusion of construction works on site.

Reason: In order to ensure the protection of the Owenacurra River and its associated riparian zone, the Cork Harbour Special Protection Area and the Great Island Channel Special Area of Conservation, and in order to minimise the risk of spread of the invasive alien species Himalayan Balsam.

19. (a) The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.
- (b) Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.
- (c) All works shall be supervised by an on-site clerk of works who will report on compliance with the Construction Environmental Management Plan. The clerk of works shall be empowered to halt works where he/she considers that the continuation of the works are likely to result in a significant pollution or siltation incident. In the event of a water pollution incident, or of damage to the adjacent river, these reports will be made available to the relevant statutory authorities, and on-site works shall cease until authorised by the planning authority. A compliance monitoring report, prepared by the clerks of works shall be submitted to the planning authority at the end of the construction period.

Reason: In the interest of public safety, residential amenity and environmental protection.

20. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

22. The developer shall pay to the planning authority a financial contribution of €187,446.46 (one hundred and eighty seven thousand, four hundred and forty six euro and forty six cents) 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matters shall be referred to An Bord Pleanála to determine.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

23. The developer shall pay the sum of €86,000 (eighty six thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of a roundabout at the L1203 (Kennell Hill)/N72/L9000 junction and relocation and upgrade of the N70/N72 (Annabella) roundabout. This contribution shall be paid prior to commencement of development or in such phases payments at the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

Dated this day of 2017.