

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

**Cork City**

**Planning Register Reference Number: T.P.16/37010**

An Bord Pleanála Reference Number: PL 28.248042

**APPEAL** by Gayle Murray and others care of 81 Mile Stream, Shanakiel, Cork against the decision made on the 27<sup>th</sup> day of January, 2017 by Cork City Council to grant subject to conditions a permission to Aiden Murphy, Statutory Receiver on behalf of Coleman Brothers Limited (in receivership) care of Hogan Associates of The Lodge, Proby's Quay, Cork in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Construction of 38 number two and three-storey dwellings including all associated site development and landscaping works, at Mile Stream, Shanakiel, Cork as amended by the revised public notice received by the planning authority on the 22<sup>nd</sup> day of December, 2016.

## **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 provisions of the Cork City Development Plan, 2015-2021, the existing established residential use and the pattern of existing and permitted development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the provisions of the Development Plan, would be acceptable in terms of traffic safety and convenience and would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, in particular, the Cork Harbour Special Protection Area (Site Code 004030) and Great Island Chanel Special Area of Conservation (Site Code 001058), taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is not, therefore, required.

## 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 further plans and particulars submitted on the 22nd day of December, 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. (1) The existing vehicular and pedestrian access to the completed Phase 1 of the Mile Stream proposed development shall be permanently closed on completion of the access hereby permitted. Prior to commencement of development, full details for this area of the wider Mile Stream Estate, including landscaping and wall/boundary finish, shall be submitted to, and agreed in writing with, the planning authority.
- (2) A pedestrian access, 1.8 metres wide, shall be provided across the open space to the north of house number 21, and a gap provided in the existing wall bounding Blarney Road.

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

3. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. 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. At the time of taking in charge, the open spaces shall be vested in the local authority at no cost to the local authority.

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

4. The construction of the development shall be managed in accordance with a Construction 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:
  - (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
  - (b) location of areas for construction site offices and staff facilities,
  - (c) details of site security fencing and hoardings,

- (d) details of on-site car parking facilities for site workers during the course of construction,
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
- (f) measures to obviate queuing of construction traffic on the adjoining road network,
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

- 5. (a) The proposed access to the development, internal roads and footpaths from Blarney Road, shall be designed in accordance

with the Design Manual for Urban Roads and Streets (DMURS) issued in March, 2013.

- (b) The upgrade of the signalised junction with the Blarney Road shall be agreed with Cork City Council.
- (c) The public lighting proposals shall be carried out in accordance with the plans and particulars submitted in connection with the proposed development.

Full details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and all works shall be completed by the applicant, to the satisfaction of the planning authority prior to the occupation of any house within the proposed development.

**Reason:** In the interest of compliance with DMURS and in the interest of traffic and pedestrian safety.

- 6. All aspects of the proposed drainage layout, design and details shall be carried out in accordance with the plans and particulars submitted to the planning authority. Full details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development and all works shall be completed by the applicant, to the satisfaction of the planning authority prior to the occupation of any house within the proposed development.

**Reason:** In the interest of public health, the protection of adjoining properties and the proper planning and sustainable development of the area.

- 7. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

**Reason:** In the interest of visual amenity.

8. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any proposed dwellinghouse without a prior grant of planning permission.

**Reason:** In the interest of residential amenity and in order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

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. 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.

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.

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

**Dated this            day of            2017.**